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Summary of Vehicle Occupant Protection Laws



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INTRODUCTION

PURPOSE

This publication reports the status of State statutes that are concerned with vehicle occupant protection (except off-highway vehicles). Such laws include requiring the use of (1) safety belts, (2) child passenger restraint devices, and (3) motorcycle or bicycle helmets. Also included are laws that prohibit riding in the bed of a pickup truck. Except as noted, the status of the State laws reported is January 1, 2006.

ORGANIZATION

This publication is divided into three areas: (1) Introduction; (2) Summary Table; (3) a State-by-State Analysis. The State-by-State Analysis is organized by State and then by specific legal topics. The State-by-State Analysis includes code and, where needed, case law citations; these should help individuals conducting additional research in this area of the law. The State-by-State Analysis can be used to facilitate the comparison of State laws in the subject areas.

EXPLANATIONS

Required Use of Safety Belts: Although there are limitations, exceptions, or exemptions, State laws usually require that drivers and passengers wear safety belts when operating or riding in a private passenger motor vehicle. Generally, State laws provide that this requirement **only** applies to motor vehicles that are required to be equipped with safety belts. 49 CFR 571.208

Limitations, Exceptions or Exemptions: Safety belt use laws provide for numerous limitations, exceptions, or exemptions. Most States mandate the use of safety belts only for drivers and **front seat** passengers. In addition, except for New Hampshire, all States exempt individuals from wearing a safety belt if they can justify such based on

either a medical necessity or physical size. Other exceptions include passengers riding in public transportation vehicles (e.g., buses) and rural letter carriers of the U.S. Postal Service.

Primary Versus Secondary Enforcement of Safety Belt Use Laws: "Primary" safety belt enforcement means that law enforcement officers have the authority to issue a citation for a failure to wear a safety belt based solely on probable cause of such violation. "Secondary" enforcement means that such officers are only authorized to enforce a violation of the safety belt use law after they have first stopped a person for some other violation of the law. Important: In this publication, a State provides for "primary" enforcement unless otherwise indicated.

Required Use of Child Restraint System: All State laws now require that children be secured in either a child passenger protection device or safety belt when being transported in a motor vehicle. Very young children (e.g., <4 years old) must be secured in child passenger protection devices. Most State laws provide that these devices must satisfy Federal specifications. 49 CFR 571.213. For older children (e.g., ≥4 but <6 years old), State laws usually provide that they may be secured in either a safety belt or a child passenger protection device. About half the States provide for a medical or physical exemption from these requirements.

Motorcycle and Bicycle Helmet Use Laws: Most State laws mandate that only motorcycle operators and passengers under 18 years old wear protective headgear when operating or riding on a motorcycle. A few States now require children to wear safety helmets when riding a bicycle. Despite numerous legal challenges, the courts have held motorcycle helmet usage laws to be constitutional.

Validity of Traffic Regulations Requiring Motorcyclists to Wear Helmets or Other Protective Headgear, 72 ALR5th 607.

Required Use of Motorcycle Eye Protection

Device: Most State laws provide that, regardless of age, operators, and in some cases, passengers of motorcycles wear eye protection devices (e.g., goggles) while operating or riding on a motorcycle. However, the law normally provides an exemption to this requirement if the motorcycle is equipped with a windscreen or windshield.

Fines: Unless noted, the fines reported do not include court costs or bail schedule forfeitures.

COMMERCIAL MOTOR VEHICLES

Federal law requires that persons who operate certain commercial motor vehicles wear safety belts. This requirement applies to persons operating a vehicle that either (1) has a gross weight rating or combination gross weight rating of $\geq 10,001$ lbs. ($\geq 4,537$ kilograms), (2) is designed to carry >15 persons (>8 persons if for compensation) including the driver, or (3) is used to transport hazardous materials. 49 CFR 390.5 and 392.16 The sanctions for violating this requirement are a fine of at least \$100 but not more than \$500 for a first offense and at least \$200 but not more than \$500 for a second offense. 49 USC 526.

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ALASKA

JURISDICTION:

General Reference:

Required Use of Safety Belts:¹

Requirements:

ALASKA

Alaska Statutes and Alaska Administrative Code (AAC)

- I. A person may not operate a motor vehicle unless they are restrained by a safety belt. §28.05.095(a)(2)
- II. Persons ≥ 16 years may not occupy a motor vehicle while being driven unless they are restrained by safety belts. §28.05.095(a)(1)

Secondary Enforcement. A law enforcement officer cannot stop or detain a motor vehicle to determine compliance with the requirements of I and II above unless the vehicle has been stopped or detained for some other violation of the law. §28.05.095(e)

- III. A driver may not transport a person ≥ 4 but < 16 years old unless such person is properly secured in a safety device that is appropriate for that person and that has been approved by the U.S. Department of Transportation. §28.05.095(b)

Sanctions for Failure to Use or Require the Use of Safety Belts:

- I. Infraction: For a violation of I or II above, a fine of not more than **\$15**.² §28.05.099(a)
- II. Infraction: For a violation of III above, a fine of not more than **\$50**. §28.05.099(b)
- III. Licensing action: For a violation of III above, a person may be assessed points against his/her driving record.³ §28.05.099(b)

Effect on Civil Liability:

No statutory provision.⁴

Required Use of Child Safety Restraint Systems:¹

Requirements:

A driver may not transport a person < 4 years old unless that person has been properly secured in a child safety device for infants that has been approved by the U.S. Department of Transportation. §28.05.095(b)

¹Exemptions. The use of either safety belts or child passenger safety devices is not required under the following circumstances: (1) For passengers in school buses unless such buses are required by the U.S. Department of Transportation to have such belts for passengers; (2) for vehicle operators who are either delivering mail or newspapers; (3) for persons or classes of persons who have been exempted via regulations because of either physical or medical reasons; and (4) for persons riding in motor vehicles that are not required to have safety belts. §§28.05.095(c) and 28.05.096(a)

²As an alternative, an offender may donate \$15 to the Emergency Medical Services entity that provides services in the area where the violation occurred. §28.05.099(a)

³The point schedule does not give a specific point value for this offense. However, there is a 2-point assessment for violations of the traffic laws for which points can be assessed but no point value has been established. 13 AAC 08.210(21)

⁴Via case law, the failure to use a safety belt is "relevant evidence for the purpose of damage reduction" (724 P.2d at 1199) in automobile accident situations that result in bodily injuries. *Hutchins v. Schwartz*, 724 P.2d 1194 (Alaska 1986)

ALASKA

Sanctions for Failure to Require the Use of Child Restraint Systems:

I. Infraction: Not more than **\$50**. §28.05.099(b)

II. Licensing action: Persons may be assessed points against their driving records. §28.05.099(b).

Effect on Civil Liability:

No statutory provision.

Required Use of Motorcycle Protective Headgear:

Requirements:

A person⁵ operating or riding on a motorcycle must wear protective headgear that complies with either Federal government or nationally recognized standards. §28.05.011 and 13 AAC 04.350(a)

Sanctions for Failure to Use:

Infraction: A fine of not more than **\$300**. §28.40.050(c).

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person operating a motorcycle must wear an eye-protection device that complies with nationally recognized standards. This requirement does not apply if the motorcycle is equipped with either a windscreen or a windshield. §28.05.011 and 13 AAC 04.350(b)

Sanctions for Failure to Use:

Infraction: A fine of not more than \$300.³ §28.40.050(c)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁵Regulatory law provides that "[e]xcept as provided by statute, a person operating or riding upon a motorcycle or motor-driven cycle upon a public roadway must wear protective headgear...." 13 AAC 04.350(a) Statutory law provides that "[a] person who is 18 years of age or older may not be required to wear a helmet while operating a motorcycle if the person is the holder of a license or endorsement to operate a motorcycle." §28.35.245(b) Note: This statutory provision appears to apply only to operators but not to passengers.

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

None Note: Even though there is no statutory authority prohibiting this activity, the safety belt usage and child safety restraint system laws may indirectly establish such a prohibition.

Sanctions for a Violation:

Exemptions:

JURISDICTION:
General Reference:

ALABAMA
Code of Alabama

Required Use of Safety Belts:⁶

Requirements:

Each front-seat occupant of a "passenger car" (i.e., a motor vehicle designed to carry ≤10 persons but does not include motorcycles or trailers) shall have a safety belt properly fastened about his/her body any time the vehicle is in motion.⁷ §§32-5B-2 and 32-5B-4(a)

Require the Use of Safety Belts:

Secondary Enforcement. "A law enforcement officer may not search or inspect a motor vehicle, its content, the driver or a passenger solely because of a violation" of this requirement. §4 of Public Act 397 (1999) A violation of this requirement does not constitute probable cause to search a vehicle. §32-5B-5. Misdemeanor: A fine of not more than \$25. §32-5B-5. Note: A violation of this requirement is not to be entered on the driving record of the vehicle operator.⁸ §§32-5A-8(a) and 32-5B-7. No court costs can be assessed for a violation of this requirement. Any fine given is allocated to the Department of Public Safety and the general fund. §32-5B-8.

⁶**Exemptions.** Vehicle operators or passengers are exempt from the safety belt use requirement in the following circumstances: (1) Children, who are required to be in a child passenger restraint system; (2) persons, who for medical reasons, are unable to use a safety belt; (3) rural letter carriers while on office duty with the U.S. Postal Service; (4) a person (driver or passenger) who is delivering newspapers or mail; (5) passengers riding in vehicles with a model year prior to 1965; and (6) passengers riding in motor vehicles which normally operate in reverse. §32-5B-4(b).

⁷Under separate provisions of law, a person must wear a safety belt when operating a school bus while transporting children. Failure to use a safety belt is *prima facie* evidence of nonfeasance of duty and subjects the driver to dismissal. In addition, if pupil transportation services are being provided for under a contract with a private firm, such a failure shall constitute a breach of contract by the private contractor. §16-27-6

⁸No points are to be assessed for a violation of this requirement. Regulation 760-X-.07 and UTC Offense Codes. Note: Despite the fact that (1) no points can be assessed and (2) the law does not specifically authorize licensing action for such a violation, an offender may still be subject to licensing action. Under general provisions of the law, the courts are authorized to issue an order that forbids a person, who has been convicted of a traffic offense, from operating a motor vehicle for either an established period of time or perpetually. §32-5-316.

Note. A bicycle passenger, who either weights <40 lbs. or who is <40 inches in height, must be properly seated in and adequately secured in a restraining seat by the bicycle operator. §32-5A-283(2) Note: For offenders, who are <16 years old, the sanctions for this offense appear to be the same as for failure to use a bicycle safety helmet under §32-5A-285. However, the law is not clear as to the sanctions that could be imposed on offenders who are ≥16 years old. It may well be that the general penalty provisions for misdemeanor offenses under the vehicle code, §32-5A-8, apply. These sanctions are listed under the section that provides penalties for failure to use protective motorcycle headgear.

Effect on Civil Liability:	Failure to wear a safety belt shall not be a considered as evidence of contributory negligence and shall not limit the liability of an insurer. §32-5B-7
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Required Use of Child Safety Restraint Systems:⁶

Requirements:	Every person who is transporting a child <6 years old in a motor vehicle that is registered in this State shall properly restrain such child in a child passenger restraint system that meets Federal standards. ⁹ §32-5-222(a) Note: This requirement does not apply to trucks or buses weighing ≥1 ton. §32-5-222(a)
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Sanctions for Failure to Require the Use of Child Restraint Systems:	Misdemeanor: A fine of not more than \$10 . §§32-5-222(c) and 32-5A-8(a).
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Effect on Civil Liability:	I. In no event shall the failure to wear a child passenger restraint system be considered as contributory negligence. §32-5-222(a) II. This law, §32-5-222, does not create a duty or standard of care, right or liability between a parent and a child. §32-5-222(b)
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Required Use of Motorcycle Protective Headgear:

Requirements:	No person shall operate or ride upon a motorcycle or motor-driven cycle unless they are wearing protective headgear that complies with State law. ¹⁰ §§32-5A-245 and 32-12-41
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Sanctions for Failure to Use:	I. Misdemeanor: <u>First offense</u> -Imprisonment for not more than 10 days and/or a fine of not more than \$100 . <u>Second offense</u> (within one year)-Imprisonment for not more than 30 days and/or a fine of not more than \$200 . <u>Third or subsequent offense</u> (within one year)-Imprisonment for not more than 3 months and/or a fine of not more than \$500 . §32-5A-8(a) and (b) II. Even though the law does not specifically authorize licensing action for this offense, an offender may be subject to such action. In general, for a traffic law violation, the courts are authorized to issue an order that forbids a person from operating a motor vehicle for
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⁹For children who are 4 or 5 years old, a "child passenger restraint system" that meets Federal standards is defined by statute to include seat belts that have been installed in the motor vehicle. §32-5-222(a)

¹⁰This requirement does not apply to persons who are riding in an enclosed cab. §32-5A-245(c)

either an established period of time or perpetually. §32-5-316
 III. A person's driving record is assessed 2 points for a violation of this requirement. Regulation 760-X-.07.

Required Use of Motorcycle Eye Protection Device:

Requirements:	None. There are no specific requirements. However, this topic is generally covered above under the use of protective headgear.
Sanctions for Failure to Use:	

Required Use of Bicycle Protective Headgear:

Requirements:	A person <16 years old, who operates or rides on a bicycle, must wear a protective bicycle helmet. §32-5A-283(1)
Sanctions for Failure to Use:	<p><u>First offense</u>-A police officer shall (1) counsel and provide the offender with written information on bicycle helmet safety and (2) instruct the offender to deliver the information to a parent. §32-5A-285(1)</p> <p><u>Second offense</u>-A police officer shall counsel and provide the offender with written information on bicycle helmet safety. In addition, a warning citation shall be issued to the offender who is to give such citation to his/her parent. The citation instructs the parent (or guardian) to contact the police for information about the bicycle helmet law and where to obtain a bicycle safety helmet. §32-5A-285(2)</p> <p><u>Third offense</u>-A police officer shall counsel the offender, confiscate the bicycle, and take the offender to his/her residence. A warning citation shall be issued to either the parent or guardian. If such person is not available, the citation shall be left at the residence with instructions to pick up the bicycle at the police station. §32-5A-285(3)</p> <p><u>4th offense</u>-The bicycle shall be confiscated and the offender taken to his/her residence. A parent or guardian is subject to a fine of \$50.¹¹ There are no court costs or fees for this offense. §32-5A-285(4)</p>

¹¹The fine or penalty is waived or suspended if the operator or passenger presents proof of purchase of a bicycle safety helmet along with an intention of using such device. §32-5A-285(4) Note: Fines collected for this offense are only to be used to fund local school system safety education programs or the purchase of bicycle helmets for persons who are financially disadvantaged. §32-5A-285(5)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

Sanctions for a Violation:

Exemptions:

JURISDICTION:
General Reference:

ARKANSAS
Arkansas Code Annotated

Required Use of Safety Belts:¹²

Requirements:

When a motor vehicle¹³ is in operation,¹⁴ every driver and front seat passenger shall wear a properly adjusted and fastened seat belt.¹⁵ §27-37-702(a)¹⁶

Secondary Enforcement. A motor vehicle cannot be stopped solely to determine if its occupants are in compliance with this requirement. §27-37-704

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation.¹⁷ A fine of not more than \$25.¹⁸ §27-37-706(a)

Note: No points are assigned to a person's driving record for a violation of this requirement. Regulation 2-27-16-907(a)(4)
The State shall not include a violation of this requirement in a traffic report. §27-37-707
The failure to wear a safety belt cannot be

Effect on Civil Liability:

¹²Exemptions. The requirement to use a safety belt does not apply in the following situations: (1) To passenger automobiles manufactured prior to January 1, 1968, and to all other vehicles manufacture prior to January 1, 1972; (2) to passengers and drivers who have a physical condition that would make the use of a safety belt inappropriate; (3) to children who are properly restrained under the child passenger protection act, section 27-34-101 et seq.; and (4) to drivers who are rural letter carriers for the United States. §27-37-702(b)

¹³For purposes of safety belt usage, a "motor vehicle" means any motor vehicle except a school bus, church bus, or other public conveyance which is required by Federal law or regulation to be equipped with a passenger restraint system. §27-37-701(1) However, "[t]he driver or operator of a school bus shall wear a seat belt at all times while operating the school bus whenever the bus is so equipped." §6-19-109

¹⁴Every driver who transports a child under 15 years of age in a passenger automobile, van, or pickup truck, other than one operated for hire, which is registered in this or any other state, shall provide while the motor vehicle is in motion and operated on a public road, street, or highway of this state for the protection of the child by properly placing, maintaining, and securing the child in a child passenger restraint system properly secured to the vehicle and meeting applicable federal motor vehicle safety standards in effect on January 1, 1995. §27-34-104 (a)

¹⁵Any motor vehicle passenger who is riding with a person holding an instruction permit must be secured in a safety belt. §27-16-802(a)(4). A person who violates this provision is subject to the following general misdemeanor sanctions for violating the motor vehicle laws: a fine of not more than \$500, and jail for not more than 90 days. §27-16-301.

¹⁶This includes each driver or passenger who is seated in a wheelchair who must (1) wear a properly adjusted and fastened seat belt properly secured to the wheelchair; and (2) have the wheelchair properly secured in the motor vehicle. 27-37-702 (c) (1) and (2).

¹⁷The offense would normally be considered a misdemeanor per §27-37-101. However, the Criminal Code, Title 5, provides that, if an offense is punishable by only a fine, it is classified as a violation. §§5-1-105(b)(3) and 5-1-108(b).

¹⁸No court or other costs can be assessed. §27-37-706(b) Note: A fine for a moving violation is reduced by \$10 if the offender was in compliance with the safety belt use law, when stopped by a law enforcement officer. §27-37-705

admitted into evidence at a civil action except in limited product liability cases. §27-37-703

Required Use of Child Safety Restraint Systems:¹⁹

Requirements: A driver, who transports a child < 6 years old and < 60 pounds in a passenger automobile, van, or pickup truck (but not vehicles operated for hire), shall secure such child in a child passenger restraint system that complies with Federal standards.²⁰ §27-34-104(a)

Sanctions for Failure to Require the Use of Child Restraint Systems: **Violation.** A fine of not less than \$25 nor more than \$100. § 5-1-105(a) 7 (b), 5-1-108(b) and 27-34-103(a). Note: No points are assigned to a person's driving record for a violation of this requirement. Regulation 2-27-16-907(a)(4)

Effect on Civil Liability: The failure to provide or use a child passenger safety seat shall not be considered, under any circumstances, as evidence of comparative or contributory negligence.²¹ §27-34-106(a). A Federal court has interpreted this provision as also precluding the admission of evidence concerning the mitigation of damages. *Potts v. Benjamin*, 882 F.2d 1320 (8th Cir. 1989)

Required Use of Motorcycle Protective Headgear:

Requirements: All motorcycle passengers and riders <21 years old "shall be equipped" with protective headgear. §27-20-104(b)(1)

¹⁹**Exemptions.** A driver does not have to comply with the child safety seat requirement under the following circumstances: (1) The motor vehicle is being used as an ambulance or other emergency vehicle; (2) an emergency exists that threatens the life of either the driver or child; and (3) because of medical reasons, the child is unable to be restrained. §27-34-105

²⁰The law provides that a driver can comply with this general requirement in two ways. (1) A driver, who transports a child who is either <6 years or who weighs <60 lbs., must secure such child in a Federally approved child passenger restraint system. §27-34-104(b) (2). However, a driver, who transports a child who is either ≥6 or who weighs ≥60 lbs., satisfies the general requirement if he/she secures such a child in a safety belt. §27-34-104(c).

²¹In addition, the failure to provide or use a child passenger safety seat is not to be considered as evidence of negligent homicide. §27-34-106(b)

Sanctions for Failure to Use:²²

Misdemeanor: Imprisonment for not more than **30 days** and/or a fine of not less than **\$10** nor more than **\$50**. §27-20-102

Required Use of Motorcycle Eye Protection Device:

Requirements:

All motorcycle passengers and riders (regardless of age) "shall be equipped" with protective glasses, goggles or transparent face shields. §27-20-104(b)(2)

Sanctions for Failure to Use:

Misdemeanor: Imprisonment for not more than **30 days** and/or a fine of not less than **\$10** nor more than **\$50**. §27-20-102

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:²³

Requirements:

No person shall ride upon any portion of a vehicle that is not designed or intended for the use of passengers. §27-35-104(a)

Sanctions for a Violation:

Misdemeanor: First offense-Imprisonment for not more than **10 days** and/or a fine of not more than **\$100**.
Second offense (within 1 year)-Imprisonment for not more than **20 days** and/or a fine of not more than **\$200**.
Third or subsequent offense (within 1 year)-Imprisonment for not more than **6 months**

²² The point system regulations, Regulation 2-27-16-907(a)(4), do not specifically assign points for this violation. It is doubtful that this offense would be considered a "moving violation" under these regulations for which 3 points are assigned for violations of the traffic laws where no point value has been specifically established. See discretionary licensing action for habitual traffic law offenders under §27-16-907.

²³ In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

and/or a fine of not more than **\$500**. §§27-35-101 and 27-50-305(b)

Exemptions:

This requirement does not apply either (1) to employees engaged in the discharge of official duties or (2) to persons riding within bodies of trucks in a space intended for merchandise.
§27-35-104(b)

JURISDICTION:
General Reference:

ARIZONA
Arizona Revised Statutes Annotated

Required Use of Safety Belts:²⁴

Requirements:

I. A front seat occupant of a motor vehicle²⁵ is required to use either lap or lap and shoulder belt combination while the vehicle is in motion. §28-909(A)

II. A driver must insure that front-seat passengers <16 years old comply with the above requirement. §28-909(B)

Secondary Enforcement. A law enforcement officer shall not stop or issue a citation for a violation of this requirement unless the vehicle was stopped for some other motor vehicle law violation. §28-909(C)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Penalty: A fine of not more than **\$10**²⁶ for each violation. §28-909(G)

Note: A violation of this requirement cannot be used as a basis for suspending or revocation an offender's driving privileges. §28-909(D)

Effect on Civil Liability:

No statutory provision.²⁷

Required Use of Child Safety Restraint Systems:²⁸

Requirements: A person transporting a child, who is <5 years old, must restrain such child in a Federally approved child passenger restraint system. §28-907(A) and (B)

Note: No point assessment for this offense.

Sanctions for Failure to Require
the Use of Child Restraint Systems:
Effect on Civil Liability:

Civil Penalty: A fine of **\$50**. §28-907(C)

No statutory provision.

²⁴**Exemptions.** The requirement does not apply (1) to children, who are subject to being restrained via a child safety seat; (2) to persons, who via a written statement from a physician, are unable for physical or psychological reasons, to wear a shoulder or lap belt; and (3) to letter carriers of the U.S. Postal Service while on official duties. §28-909(F)

²⁵This requirement applies to persons operating or riding in motor vehicles (1) that are designed to carry ≤10 persons, (2) that were manufactured after model year 1972 and (3) that must be equipped with safety belts under Federal law. §28-909(A)

²⁶An offender is also subject to assessments that can total 57 percent to 70 percent of the fine imposed. §§12-116.01 and 12-116.02

²⁷In a case decided prior to the enactment of the mandatory safety belt use law, the Arizona Supreme Court held that failure to use a safety belt can be considered in whether to apportion damages in automobile accident injury situations. I.e., damages can be reduced if the persons seeking damages have failed to use safety belts. *Law v. Superior Court of State of Ariz.*, 755 P.2d 1135 (Ariz. 1988)

²⁸**Exemptions.** A motor vehicle operator does not have to comply with the mandatory child restraint provisions under the following circumstances: (1) The operator is driving a vehicle that was not manufactured with passenger restraint systems; (2) the operator is driving a recreational vehicle defined in §41-2142; (3) the operator is driving a commercial motor vehicle; (4) a person is transporting a child in an emergency in order to obtain medical care; (5) due to the size of the passenger compartment of the vehicle, the operator cannot secure all of the children who must be restrained. However, the operator must restrain at least one such child and must restrain as many such children as is possible under the conditions. §28-907(G)

Required Use of Motorcycle Protective Headgear:

Requirements:	A person who is <18 years old shall not operate or ride on a motorcycle unless that person wears a protective helmet. §28-964(A)
Sanctions for Failure to Use:	Civil Traffic Offense: Not more than \$250 . §§28-121(B) and 28-1598. Note: No point assessment for this offense. A person's failure to wear a protective helmet can be admitted into evidence to reduce the amount of damages such person will be awarded as a result of injuries they sustained in a traffic accident. However, it must be shown that such a failure contributed to the person's injuries. <i>Warfel v. Cheney</i> , 758 P.2d 1326 (Ariz. App. 1988)

Required Use of Motorcycle Eye Protection Device:

Requirements:	A person operating a motorcycle shall wear an eye protection device (e.g., glasses, goggles, etc.) unless the motorcycle is equipped with a protective windshield. §28-964(A)
Sanctions for Failure to Use:	Civil Traffic Offense: Not more than \$250 . §§28-121(B) and 28-1598. Note: No point assessment for this offense.

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	None
Sanctions for a Violation:	
Exemptions:	

Required Use of Safety Belts:²⁹
Requirements:

- I. No person shall operate a motor vehicle³⁰ unless such person and all passengers ≥ 16 years old are properly restrained by a safety belt. This requirement does not apply to taxicab operators driving on city streets but only when they are engaged in transporting fare-paying passengers. Veh. Code §27315(d)(1) and (e)
- II. No person shall operate either a limousine for hire or an emergency vehicle unless the operator and front-seat passengers who are ≥ 4 years old or who weigh ≥ 40 lbs. are restrained by safety belts. Veh. Code §27315(d)(2)
- III. No person shall operate a taxicab unless front-seat passengers who are ≥ 4 years old or who weigh ≥ 40 lbs. are restrained by safety belts. Veh. Code §27315(d)(3). Note: Veh. Code §27315 has been held to be constitutional. *People v. Coyle*, 251 Cal Rptr 80 (Cal Super 1988).
- IV. No driver shall transport a child, and no parent or legal guardian (when present in a motor vehicle) shall allow his/her child to be

²⁹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To operator or passengers who have either a physical or mental condition, duly certified by a physical or chiropractor, that would make it inappropriate for such person to use a safety belt; (2) to a public employee (operator or passenger) or to a non-employee passenger behind the front seat of an emergency vehicle while riding in such vehicle unless such use is required by the governmental agency; (3) to persons delivering newspapers while they are in the process of making deliveries; (4) to rural delivery carriers for the U.S. Postal Service while delivering mail; (5) to passengers ≥ 16 years old who are using a "sleeper berth"; and (6) to drivers while collecting solid waste or recyclable materials. Veh. Code §27315(e), (g), (n), (o) and (p) Note: The law does not provide for a specific exemption for persons riding in motor vehicles that are not required to be equipped with safety belts under Federal law. Nevertheless, the law does not require the installation of safety belts on vehicles that are not required to be equipped with such belts under Federal law. Veh. Code §27315(f) In addition, State law provides that used vehicles, manufactured prior to January 1, 1962, do not have to be equipped with safety belts prior to sale. Veh. Code §27314(a)

School Buses. I. On school buses that are equipped with safety belts, the State Board of Education must adopt regulations requiring passengers of such vehicles to use a passenger restraint system. However, no person, school district, or organization may be charged with a violation of this requirement if a passenger either fails to use or improperly uses such a restraint system. II. Unless prohibited by Federal law or regulations, all school buses manufactured after January 1, 2002 and purchased or leased for use in the State shall be equipped with safety belts for all seating positions. Such safety belts shall (1) consist of a "combination pelvic and upper torso passenger restraint system" and (2) comply with 49 CFR 571.209 and 571.210. Education Code §38047.5 and Vehicle Code §27316

³⁰"Motor vehicle" means any passenger vehicle, any motor truck or truck tractor. However, the term does not include motorcycles. Veh. Code §§27315(c) and 27360.5. **Important.** The requirements of IV also apply to persons who are transporting children in fully enclosed three-wheeled motor vehicles that are not less than 7 feet in length, that are not less than 4 feet in width and that have an unladen weight of 900 lbs. or more. Veh. Code §27315.1)

CALIFORNIA

Required Use of Safety Belts: (continued)

transported in a motor vehicle, who is either (1) ≥ 6 years but < 16 years or (2) < 6 years old and weighs ≥ 60 lbs. unless such child is properly secured in a Federally approved child restraint system or safety belt. Veh. Code §27360.5(a) and (b)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. For a Violation of I, II and III Above. Infraction:³¹ First offense-A fine of not more than **\$20**. Subsequent offense-A fine of not more than **\$50**. Veh. Code §27315(h) and (i). In lieu of the above fine, a first offender may be ordered to attend traffic school in which the proper use of safety belts is demonstrated. Veh. Code §27315(h). Note: no points are assigned for a violation of these requirements.

II. For a Violation of IV. Infraction:³² First offense-A fine of **\$100**.³³ Second or subsequent offense-A fine of **\$250**. Veh. Code §27360.5(c)(1) and (2) For either a first or subsequent violation, a person's driving record is assessed 1 point. Veh. Code §12810(j)

Effect on Civil Liability:

A violation of the requirements of I, II, and III above shall not establish negligence as a matter of law or negligence per se in any civil action for comparative fault purposes. Nevertheless, negligence may be proven as a fact without regard to the violation. Veh. Code §27315(j)

Required Use of Child Safety Restraint Systems

Requirements:

No driver shall transport, and no parent or legal guardian (if present in the motor vehicle) shall permit his or her child to be transported in a motor vehicle,³⁴ except for children who are ≥ 6 years old or who weigh ≥ 60 lbs., unless such child is properly restrained in a Federally approved child passenger restraint system. (Note: When the parent or guardian is present in the vehicle and is not the driver,

³¹ **Effective.** The court may exempt a child from the use of a child passenger restraint system if it determines that such use would be impractical (1) due to the child's physical unfitness, medical condition or size, or (2) in situations where there is a life-threatening emergency or a child is being transported in an emergency vehicle, although a safety belt must be used. Also, a child weighing > 40 lbs. may be transported in the back seat while wearing only a lap safety belt if the vehicle does not have rear-seat lap-shoulder safety belt combinations. Veh. Code §27363(a), (b) and (c)

³² If the imposition of a fine for an infraction would impose a hardship on an offender or his/her family, the court may sentence such person to perform community service in lieu of the "total fine" (i.e., the base fine, all assessments, penalties and additional monies). Penal Code §1209.5

³³ For either a first or subsequent offender, this fine is waived if a defendant is economically disadvantaged and the court, instead, refers this person to a child restraint education program. Veh. Code §27360.5(c)(1) and (2)

³⁴ The term "motor vehicle" means any passenger vehicle, motor truck or truck tractor. Veh. Code §§27315© and 27360(a). In addition, child passenger restraint requirements apply to children who are being transported in fully enclosed three-wheeled vehicles that are not less than 7 feet in length, that are not less than 4 feet in width and that have an unladen weight of 900 lbs. or more. Veh. Code §27368.

CALIFORNIA

Required Use of Child Safety Restraint Systems (continued)

the driver is relieved of this obligation.) Vehicle Code §27360

Beginning January 1, 2005, a child or ward < 6 years old and less 60 lbs. must be secured in the rear seat, except under any of the following circumstances:

- (A) There is no rear seat.
 - (B) The rear seats are side-facing jump seats.
 - (C) The rear seats are rear-facing seats.
 - (D) The child passenger restraint system cannot be installed properly in the rear seat.
 - (E) All rear seats are already occupied by children under the age of 12 years.
 - (F) Medical reasons necessitate that the child or ward not ride in the rear seat. (The court may require satisfactory proof of the child's medical condition.)
- Notwithstanding the above exemption criteria, a child or ward may not ride in the front seat of a motor vehicle with an active passenger air bag, if the child or ward:

- is under one year of age,
- weighs less than 20 pounds, or
- is riding in a rear-facing child passenger restraint system. Veh Code §27360.

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: first offense-A fine of **\$100**; second or subsequent offense-A fine of not more than **\$250**. Veh. Code §27360(c)(1) and (2) For either a first or subsequent offense, a person's driving record will be assessed 1 point. Veh. Code §12810(j)

Effect on Civil Liability:

Required Use of Motorcycle Protective Headgear:

Requirements:

When riding on a motorcycle, a driver or passenger must wear a safety helmet meeting national standards. Veh. Code §27803(a)

Sanctions for Failure to Use:

Infraction: First offense-A fine of not more than **\$100**. Second offense (within 1 year)-A fine of not more than **\$200**. Third and subsequent offense (within 1 year)-A fine of not more than **\$250**. Veh. Code §42001(a). No points are assigned for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

No specific requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

A person <18 years old shall not operate or ride on a Bicycle unless they are wearing a bicycle helmet that complies with national standards. Veh. Code §21212(a)

CALIFORNIA

Sanctions for Failure to Use:

Infraction: First offense-There is **no fine**. Subsequent offense-A fine of not more than **\$25**. Veh. Code §21212(d) and (e) No points are assigned for a violation of this requirement.

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:³⁵

Requirements:

I. A vehicle operator shall not allow a person to ride upon any part of a vehicle that is not designed or intended for passenger use. Veh. Code §21712(a) II. No person shall ride on vehicle or upon any part of a vehicle that is not designed or intended for passenger use. Veh. Code §21712(b) III. No person driving a pickup truck or flatbed motor truck shall transport a person in or on the back thereof unless the passenger is restrained by a Federally approved restraint system. Veh. Code §23116(a) and (c) IV. No person shall ride in or on the back of a pickup truck or flatbed motor truck unless they are restrained by a Federally approved restraint system. Veh. Code §23116(b) and (c)

Sanctions for a Violation:

Infraction: First offense-A fine of not more than **\$100**. Second offense (within 1 year)-A fine of not more than **\$200**. Third or subsequent offense (within 1 year)-A fine of not more than **\$250**. Veh. Code §42001(a) No points are assigned for a violation of these requirements.

Exemptions:

I. The prohibitions contained in Veh. Code §21712(a) and (b) do not apply in situations where a passenger either (1) is an employee discharging duties or (2) is riding completely within or upon vehicle body. Veh. Code §21712(c) II. The prohibitions contained in Veh. Code §23116(a) and (b) do not apply if a person is being transported in the back of the vehicle (1) owned by a rancher/farmer within the boundaries of lands owned by the rancher/farmer or on a highway for not more than 1 mile between parts of the ranch/farm; (2) as a result of an emergency situation and at the direction of a public agency; and (3) as part of an authorized parade at a speed of ≤8 mph. Veh. Code §23116(d), (e) and (f)

³⁵For first or subsequent offenders, this fine is waived if a defendant is economically disadvantaged and the court, instead, refers this person to a child restraint education program. Veh. Code §27360 (1) and (2).

Such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law. Note: The law prohibits a person from transporting a person in a farm labor vehicle that does not comply with Federal safety belt requirements (49 CFR 571.207). Veh. Code §31406

COLORADO

JURISDICTION:
General Reference:

Required Use of Safety Belts:³⁶
Requirements:³⁷

Sanctions for Failure to Use or
Require the Use of Safety Belts:²

COLORADO
Colorado Revised Statutes

I. A driver and front seat passengers of a motor vehicle³⁸ shall wear a safety belt while the vehicle is being operated. §42-4-237(2)

Secondary Enforcement. A law enforcement officer cannot cite a driver for a violation of §42-4-237(2) unless the driver was stopped for some other traffic law violation. §42-4-237(5)

II. A driver of either a noncommercial passenger vehicle or a vehicle operated by a child care center, who transports a child ≥ 4 but < 16 years old and who weighs ≥ 40 lbs., must secure such child in a safety belt system.³⁹ §42-4-236(2)(b) and (c)

I. A violation of I above is a Class B Traffic Infraction: A fine of **\$15** and a surcharge of **\$2**.⁴⁰ §§42-4-237(4) and 42-4-1701(4)(a)(I)(D)

II. A violation of II above is a Class B Traffic Infraction: A fine of **\$50** and a surcharge of **\$6**. §§42-4-236(7) and 42-4-1701(4)(a)(I)(D)

Note: Except as noted in Footnote No. 2, no points are assessed for a violation of these requirements.

³⁶**Exemptions.** This requirement does not apply in the following situations: (1) To a child who must be restrained according to §42-4-236; (2) to a member of an ambulance team, except the driver, when involved in patient care; (3) to certain law enforcement officers when performing official duties; (4) to persons who are exempt from wearing safety belts because of physical or psychological conditions; (5) to persons who are riding in motor vehicles that do not have safety belts because such vehicles are exempt from having such equipment; (6) to rural letter carriers of the U.S. Postal Service while performing official duties; and (7) to persons who are actually performing delivery or pickup services. §42-4-237(3)

³⁷**Vehicles Driven by Persons Under 17 Years Old.** I. Under separate statutory provisions, occupants of a vehicle driven by a person < 17 years old shall wear a safety belt under §42-4-237 or be secured in a child restraint system under §42-4-236(2)(a). §42-2-105.5(3) Also, in vehicles driven by such persons, only one passenger may occupy the front seat and the number of rear-seat passengers cannot exceed the number of available safety belts. §42-2-105.5(4) II. A violation of these requirements is a Class A Traffic Infraction for which the offender is subject to a fine **\$15 to \$100**. §§42-4-105.5(5) and 42-4-1701(3)(a)(I) In addition, driver < 17 years old who fail to comply with these requirements have 2 points assessed against his/her driving records. §42-2-127(5)(hh) and (ii)

³⁸The term "motor vehicle" means either a passenger car, a station wagon, a van, a taxicab, an ambulance, a motor home or a pickup truck. However, the term does not include either a motorcycle, a motorscooter, a motorbicycle, a motorized bicycle, a passenger bus, a school bus, farm tractor or implements of husbandry. §42-4-237(a)(a)

³⁹**Exemptions.** This requirement does not apply in the following circumstances: (1) To children where all seating positions with either safety belts or child restraint systems are occupied; (2) to children who are being transported as a result of a medical emergency; (3) to children who are being transported in certain commercial motor vehicles that are operated by child care centers; and (4) to children (≥ 16 years old) who are operating motor vehicles and who must comply with mandatory safety belt use requirements. §42-4-236(3)

⁴⁰An offender may be ordered by the court to attend a course of instruction on traffic laws, hazardous driving situations and accident prevention. §42-4-1717

COLORADO

Required Use of Safety Belts: (continued)

Effect on Civil Liability:

I. Evidence of a failure to wear a safety belt in violation of I above shall be admissible to mitigate damages. However, such mitigation is limited only to awards for pain and suffering. §42-4-237(7)
II. A violation of II above shall not constitute negligence per se or contributory negligence per se. §42-4-236(6)

Required Use of Child Safety Restraint Systems:

Requirements: A driver of either a privately owned noncommercial passenger vehicle or a vehicle operated by a child care center, who transports a child <4 years old and who weighs <40 lbs., must properly secure such child in a child restraint system. §42-4-236(2)(a) and (c) If the child is at least four years of age but less than six years of age and is less than 55 inches tall, the child shall be properly restrained in a child booster seat or with a child safety belt-positioning device {§42-4-236 (I)}, except if that child is being transported in a vehicle equipped with only a two-point lap-belt-only system available for the child, the child shall be properly restrained with a lap belt.
{§42-4-236 (I.5)}

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Class B Traffic Infraction: A fine of **\$50** and a surcharge of **\$6**. §§42-4-236(7) and 42-4-1701(4)(a)(I)(D)

Effect on Civil Liability:

A violation of this statutory provision shall not constitute negligence per se or contributory negligence per se. §42-4-236(6)

Required Use of Motorcycle Protective Headgear:

Requirements:

None⁴¹

Sanctions for Failure to Use:

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person shall not operate or ride on a motorcycle or motor-driven cycle unless that person is wearing goggles or eyeglasses with lenses made of safety glass or plastic per standards promulgated by the State. §42-4-232(1)

⁴¹Evidence of a person's failure to wear a protective helmet is inadmissible to show either negligence of the person or to mitigate damages. *Dare v. Sobule*, 674 P.2d 960 (Colo. 1984)

COLORADO

Sanctions for Failure to Use:

Class A Traffic Infraction: A fine of **\$15** and a surcharge of **\$2**.⁵ §§42-4-232(4) and 42-4-1701(4)(a)(I)(D) **Note:** No points are assessed for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:⁴²

Requirements:

I. A person is prohibited from riding on the outside, top, hood or fenders or any other portion of a vehicle except that they may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four (4) sides. §42-4-201(6)
II. A driver shall not knowingly permit a person to ride on the top, hood, fenders, or any other portion of a vehicle except that a passenger may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four (4) sides. §42-4-201(6)

Sanctions for a Violation:

Class A Traffic Infraction: A fine of **\$35** and a surcharge of **\$4**. §§42-4-201(8) and 42-4-1701(4)(a)(I)(D) **Note:** No points are assessed for a violation of these requirements.

Exemptions:

The above prohibitions do not apply to officially authorized parades, caravans, or exhibitions or to vehicles owned by either the U.S. Government, the State of Colorado and its political subdivisions, Federal or State government contractors, or public utilities and said vehicles are equipped with adequate handrails and safeguards. §42-4-201(7)

⁴²In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

CONNECTICUT
Connecticut General Statutes Annotated

Required Use of Safety Belts:⁴³

Requirements:

I. The operator and front seat passengers in a private passenger motor vehicle,⁴⁴ fire fighting apparatus or vanpool vehicle shall wear safety belts while the vehicle is in motion. §14-100a(c)(1)

II. A vehicle operator shall secure in a safety belt any passenger ≥ 4 but < 16 years old. §14-100a(c)(1)

Enforcement. The failure to wear a safety belt as required by law shall not constitute probable cause for a law enforcement officer to conduct a search of a vehicle and its contents. §54-33m

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of **\$15 (\$37)**.⁴⁵ §14-100a(c)(4)

Note: No points can be assessed against a driver's record for violating this requirement. §14-100a(c)(5)

Effect on Civil Liability:

Failure to wear a safety belt shall not be considered as contributory negligence nor shall such failure be admissible evidence in any civil action. §14-100a(c)(3)

Required Use of Child Safety Restraint Systems:

Requirements:

A person, who transports a child < 4 year old and weighing < 40 lbs., in a motor vehicle,⁴⁶ must require that such child be secured in an approved child restraint system.⁴⁷ §14-100a(d)

⁴³**Exemptions.** The requirement to use a safety belt does not apply to persons whose physical disability or impairment would prevent restraint in a safety belt. §14-100a(c)(2)

⁴⁴A "private passenger motor vehicle" is defined to include (1) a private passenger-type automobile, (2) station-wagon-type automobile, (3) camper-type motor vehicle, (4) high-mileage-type motor vehicle, (5) truck-type motor vehicle, with a load capacity of $\leq 15,000$ lbs., and registered as either a passenger motor vehicle or as a passenger and commercial motor vehicle, or (6) a vehicle with a commercial registration. The term does not include motorcycles or motor vehicles used as a public or livery conveyance. §§14-100a(c)(1) and 38a-363(e) In addition, the term does not mean (1) an authorized emergency vehicle, except fire fighting equipment responding to an emergency call, (2) vehicles operated by rural letter carriers of the U.S. Postal Service while performing official duties, or (3) vehicles used by persons engaged in the delivery of newspapers. §14-100a(c)(3) Note: The law does not provide for a specific exemption for persons riding in motor vehicles that are not required to be equipped with safety belts under Federal law. However, State law, requiring the installation of safety belts in "new" passenger motor vehicles, became effective in 1963. This law does not require that vehicles manufactured prior to 1963 be equipped with such belts.

⁴⁵The fine schedule established by the superior court (as of October 1, 1998) provides a fine of **\$37** for a violation of the safety belt use law's requirements. However, for infractions, the maximum fine that can be imposed appears to be limited to that which is specifically provided for via statute. In the case of a violation of these requirements, the law, §14-100a(c)(5), has established, what appears to be, a maximum fine of **\$15**. §§51-164m(b), (d) and (f) and 51-164n(b) and (h)

⁴⁶A "motor vehicle" does not include a bus having tonnage rating ≥ 1 ton. §14-100a(d)

⁴⁷**Alternative.** As an alternative to using a child restraint system, a driver may secure a child < 4 years old and weighing ≥ 40 lbs., in a safety belt. §14-100a(d)

Required Use of Child Safety Restraint Systems:
(continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

First offense (Infraction)-A fine of **\$60**.⁴⁸
Second offense (Violation)-A fine of not more
than **\$199** Third or subsequent offense (Class
A Misdemeanor)-An imprisonment sentence of
not more than **1 year** and/or a fine of not more
than **\$2,000**. §§14-100a(d), 53a-24, 53a-27,
53a-36 and 53a-42 A first or second offender
may be required to attend a course on child car
seat safety. §§14-100a(d)
Note: No points are assessed for a violation of
this requirement.

Effect on Civil Liability:

Failure to use a child safety restraint system
shall not be considered as contributory
negligence nor shall such failure be admissible
evidence in any civil action. §14-100a(d)

Required Use of Motorcycle Protective Headgear:⁴⁹

Requirements:

No person <18 years old may operate or ride on
a motorcycle unless he/she is wearing State-
approved protective headgear. §14-289g(a)

Sanctions for Failure to Use:

Infraction: A fine of not less than **\$90**. §14-
289g(c) **Note:** No points are assessed for a
violation of this requirement.

Required Use of Motorcycle Eye Protection Device:⁵⁰

Requirements:

A person who operates a motorcycle must wear
goggles, glasses, or a face shield as approved
by the State. §14-289d

Sanctions for Failure to Use:

Infraction: A fine of not more than **\$50**. §§14-
289d(b) and 14-296 **Note:** No points are
assessed for a violation of this requirement.

⁴⁸The law provides that the judges of the superior court shall establish a fine schedule for infractions. The fines established cannot be less than **\$35** nor more than **\$90**. As of October 1, 1998, the fine schedule provides for a **\$60** fine for an “infraction” violation of the child safety seat requirement. §§51-164m(a) and (c)

⁴⁹The Connecticut Superior Court has held that the failure to use protective headgear (helmet) is not negligence. In addition, the court determined that a person is not required to mitigate damages by wearing such a device. *Ruth v. Poggie*, 1993 Conn. Super. LEXIS 3090

⁵⁰Exemptions. This requirement does not apply if the motorcycle has a windscreen or windshield. §14-289d(b)

Required Use of Bicycle Protective Headgear:

Requirements:

A child ≤15 years old shall not ride a bicycle on a highway unless he/she is wearing appropriate protective headgear.⁵¹ §14-286d(b)

Sanctions for Failure to Use:

There are no sanctions for a violation of this requirement. However, a law enforcement officer may issue a verbal warning to the parent or guardian of a child that has violated this requirement. §14-286d(b) and (c)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:⁵²

Requirements:

No person shall operate and carry a passenger <16 years on in an open bed of a truck-type vehicle⁵³ or other vehicle. However, such passengers are allowed to ride in such open spaces provided they are properly restrained in a safety belt. §14-272a(a)

Sanctions for a Violation:

Infraction: A fine of not more than **\$50**. §§14-272a(b) and 14-296 Note: It appears that no points are assessed for a violation of this requirement.

Exemptions:

This prohibition does not apply in the following situations: (1) To a vehicle used in an authorized parade; (2) to a vehicle when such is used for farming purposes; and, (3) to a vehicle used for a recreational hayride between the months of August and December. §14-272a(a)

Sanctions for a Violation:

Infraction: A fine of not more than **\$50**. §§14-272a(b) and 14-296 Note: It appears that no points are assessed for a violation of this requirement.

Exemptions:

This prohibition does not apply in the following situations: (1) To a vehicle used in an authorized parade; (2) to a vehicle when such is used for farming purposes; and (3) to a vehicle used for a recreational hayride in the months of August and December. §14-272a(a)

⁵¹Failure to wear protective headgear as required by law shall not be considered to be contributory negligence on the part of a parent or child no shall such failure be admissible in any civil action. §14-286d(b)

⁵²In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

⁵³A truck-type vehicle with a gross vehicle weight rating not exceeding 7,500 lbs. §14-272a(a)

JURISDICTION:
General Reference:

DELAWARE
Delaware Code Annotated

Required Use of Safety Belts:⁵⁴

Requirements:

I. When a motor vehicle (except motorcycles, tractors or off-highway vehicles) is in operation, the driver and each occupant of the passenger compartment who is 16 years of age or older shall wear and shall secure his or her safety belt. Title 21, §§101(20) and 4802(a)(1), (a)(2) and (b)
II. When being transported in a motor vehicle, a child ≥ 7 but < 16 years old shall wear a safety belt at all times. Title 21, §4803(b)
III. **Primary Enforcement.** Notwithstanding any law to the contrary, any police officer is authorized to make an administrative stop for purposes of enforcing this section, upon reasonable and articulable suspicion that a violation of this section has occurred. Title 21 § 4802(i).

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. For a violation of I above,⁵⁵ a Penalty Assessment of 40 percent of the fine or fines imposed for other traffic laws committed at the time of the safety belt law violation. However, no assessment can be $> \$25$. Title 21, §4802(g)(2)a Note: No points may be assessed against a person nor may an entry be made on such person's driving record because of a violation of the safety belt use requirement. Title 21, §4802(h)

Effect on Civil Liability:

I. Failure to wear a safety belt, per I above, shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication. In addition, such a failure is not admissible as evidence in the trial of any civil action or insurance claim adjudication. Title 21, §4802(i)
II. A failure to secure a child ≥ 7 but < 16 years old in a safety belt shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action. Evidence of such failure cannot be admitted into evidence at a civil trial. Title 21, §4803(f)

Required Use of Child Safety Restraint Systems:⁵⁶

Requirements:

I. A person who is transporting a child < 6 years and < 60 lbs. shall properly secure such child in a Federally

⁵⁴**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who for medical or physical reasons are unable to wear a safety belt; (2) to persons riding in motor vehicles that do not have to be equipped with safety belts; and (3) to letter carriers of the U.S. Postal Service when performing official duties. Title 21, §4802(c)

⁵⁵A violation is a misdemeanor offense. Title 11, §233(c)

⁵⁶**Exemptions.** The requirement to use a child passenger restraint system does not apply if the child is being transported in a motor bus, limousine, or taxicab. Title 21, §4803(a)

DELAWARE

approved child passenger restraint system. Title 21, §4803(a)

II. A child who is ≤65 inches and who is <12 years old cannot occupy the front passenger seat of a motor vehicle that is equipped with a passenger-side airbag unless such airbag has been “deliberately rendered inoperable.”⁵⁷ Title 21, §4803(c)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

A fine of not more than \$28.75. Title 21, §4803(e)
Note: No points are assessed for a violation of this requirement.

Effect on Civil Liability:

A violation of these requirements shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action. Evidence of such failure cannot be admitted into evidence at a civil trial. Title 21, §4803(e)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person <19 years old shall wear a safety helmet that has been approved by the State when operating or riding a motorcycle. Motorcycle operators or passengers ≥19 years old are required to have a safety helmet in their possession but are not required to use it. Title 21, §4185(b)

Sanctions for Failure to Use:

First offense-A fine of not less than \$25 nor more than \$115. Subsequent offense (within 12 months) - imprisonment term of not less than 10 days nor more than 30 days and/or a fine of not less than \$57.50 nor more than \$250. Title 21, §4205(a) Two points are assessed for a violation of this requirement. Title 21, §§302 and 2733 and Delaware Administrative Code CDR 73-600-045.

Required Use of Motorcycle Eye Protection Device:

Requirements:

Eye protection must be worn by all persons operating or riding a motorcycle. Title 21 §4185(b)

Sanctions for Failure to Use:

Same as for failure to wear protective headgear.

⁵⁷**Exemptions.** I. This requirement does not apply to vehicles that are equipped with passenger-side air bags that are “specifically designed or modified by the vehicle’s manufacturer for use by children and small adults.” Title 21, §4803(c) II. In addition, this requirement does not apply in situations where the air bag has not been “deliberately rendered inoperable” if either (1) the vehicle does not have a rear passenger seat or (2) “all rear passenger seats are occupied by other children” who are ≤65 inches in heights and <12 years old. Title 21, §4803(c)

JURISDICTION:
General Reference:

FLORIDA
Florida Statutes Annotated

Required Use of Safety Belts⁵⁸:
Requirements:

I. A driver cannot operate a motor vehicle⁵⁹ unless they and every passenger <18 years old is restrained by a safety belt. §316.614(4)

II. A front seat passenger ≥18 years old must secure him/herself in a safety belt while a motor vehicle is in motion. §316.614(5)

Secondary Enforcement. Before a person can be charged with a safety belt violation, the driver of the motor vehicle used in the violation must have been detained either for another violation of Chapter 316 (Traffic Control/Rules of the Road) of Title XXIII or for a violation of either Chapter 320 (Motor Vehicle Registration) or Chapter 322 (Drivers' Licenses) under this same title. §316.614(8)

Require the Use of Safety Belts:

Nonmoving Traffic Violation:⁶⁰ A fine of **\$30** with court costs of **\$6**.⁶¹ §§316.614(8), 318.14 and 318.18(2) and (11)

⁵⁸**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who have a medical condition that would cause the use of safety belts to be either inappropriate or dangerous; (2) to persons while in the course of delivering newspapers; (3) to employees of a solid waste or recyclable collection service while in the course of employment; or (4) to persons riding either in the living quarters of a recreational vehicle or in the space within a truck body primarily intended for merchandise or property. §316.614(6)(a), (c) and (d) Note: "The number of front-seat passengers of a pickup truck required to wear a safety belt pursuant to this section [§316.614] shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacture." §316.614(6)(b)

School Buses. I. All school buses purchased after December 31, 2000, must be equipped with safety belts or other restraint systems that satisfy U.S. Government standards (49 CFR 571.208). II. Each school bus passenger grades pre-kindergarten through 12 must wear a safety belt when these vehicles are in operation. However, school bus operators are not required to wear safety belts via a vehicle exemption under §316.614. III. The law exempts from civil liability either governmental entities (the State, counties, school districts) or individuals (school bus operators, agents or employees [e.g., teachers or volunteers serving as chaperones of a school district], in two situations: Either (1) For an injury by a school bus passenger solely because the injured party was not wearing a safety belt; or, (2) for a personal injury by a school bus passenger for an injury caused solely by another passenger's use or nonuse of a safety belt or restraint system in a dangerous or unsafe manner. §316.6145 Note: This law does not state who is responsible (e.g., the vehicle operator) for insuring that the intended school bus passengers wear safety belts (restraints) as required and does not provide for a specific sanction for its violation. However, if a sanction can be imposed, it will be the same as for a violation of the safety belt use law. See Footnote No. 3. §§318.14(1) and 318.18

⁵⁹This requirement does not apply to persons operating the following types of vehicles: (1) A school bus; (2) a bus used to transport persons for compensation; (3) a farm tractor or other implement of husbandry; (4) a truck weighing >5,000 lbs.; and (5) motorcycles, mopeds or bicycles. §316.614(3)(a) Note: State law does not specifically exempt vehicles that are not required to have safety belts under Federal law.

⁶⁰I. For either a nonmoving or moving traffic infraction, an offender may elect to have a charge adjudicated before a "designated official." A person electing adjudication waives any rights they may have to the civil penalties under §318.18. The hearing officer is authorized to impose a fine of not more than **\$500** or require a person to attend a driver improvement school. §318.14(5) II. A person, who commits a noncriminal traffic infraction may, in lieu of a court appearance, elect, only once within a 12-month period, to attend a driver improvement course. If such occurs, adjudication is withheld and points cannot be assessed against the person's driving record. In addition, the civil penalty imposed under §318.18(3) must be reduced by 18 percent. §318.14(9)

Effect on Civil Liability:

A violation of these requirements shall not constitute negligence per se nor shall such a violation be used as *prima facie* evidence of negligence or be considered in mitigation of damage, but such a violation may be considered as evidence of comparative negligence, in any civil action. §316.614(9)

Required Use of Child Safety Restraint Systems: See **School Buses** under Footnote No. 58.

Requirements:

A motor vehicle⁶² operator, when transporting a child ≤5 years old, must secure such child in a Federally approved child restraint device. Children ≤3 years old must be secured in either a separate carrier or vehicle manufacturer's integrated child seat. Children 4 but ≤5 years old must be secured in a separate carrier, vehicle manufacturer's integrated child seat or seat belt.⁶³ 316.613(1)(a)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Moving Traffic Violation: A fine of **\$60** with court costs of **\$10**. §§316.613(5) and 318.18(3)(a) and (11) In addition, 3 points are assessed against a driver's record. §§316.613(5) and 322.27(d)(6)
Alternative Sanction. In lieu of the above fine and point sanctions, a person, with the court's approval, may elect to participate in a child restraint safety program. § 316.613(5)

Effect on Civil Liability:

The failure to provide and use a child passenger restraint shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. §316.613(3) and *Parker v. Montgomery*, 529 So.2d 1145 (Fla. App. 1 Dist. 1988) (review denied 531 So.2d 1354 (Fla. 1988)).

⁶¹**Possible Licensing Action.** For any violation of the traffic laws, the court has the authority to either suspend or revoke a driver's license if it determines that there exists a need to protect persons who use the highways. In determining whether to take such action, the court considers among other things the extent or nature of the violation and whether, as a result of the violation, there was either a death, personal injury or property damage. The provision providing for this action does not give specific license suspension or revocation periods. §316.655(2) Note: Under §322.28(1), the licensing agency (not the courts) can only suspend or revoke a license for one year. However, such agency may be able to issue driving privileges for employment purposes under §322.271.

⁶²This requirement does not apply to children riding in the following types of vehicles: (1) A school bus that complies with the color and identification requirements of chapter 234 and is used to transport children to or from public or private school or in connection with school activities but not including buses operated by common carriers in urban transportation of school children; (2) a bus used to transport persons for compensation; (3) a farm tractor or other implement of husbandry; (4) a truck weighing >5,000 lbs.; and (5) motorcycles, mopeds or bicycles. §316.613(2) Note: State law does not specifically exempt vehicles that are not required to have safety belts under Federal law.

⁶³**Bicycles.** A bicycle rider while transporting a child who is either <4 years old or who weighs ≤40 lbs. must secure such child in a seat or carrier that is designed to carry children of that age or weight for the purpose of protecting such child from the bicycle's moving parts. §316.2065(3)(b) A violation of the requirement appears to be a nonmoving violation with a fine of **\$30** with court costs of **\$6**. §§318.14(1) and 318.18(2) and (11)

Required Use of Motorcycle Protective Headgear:⁶⁴

Requirements:	No persons ⁶⁵ shall operate or ride on a motorcycle unless they are wearing protective headgear which complies with Federal standards. ⁶⁶ §316.211(1)
Sanctions for Failure to Use:	Nonmoving Traffic Violation: A fine of \$30 with court costs of \$6 . §§316.655(1), 318.14 and 318.18(2) and (11) Note: Failure to wear protective headgear may be considered as comparative negligence if it can be shown that such a failure was the proximate cause of the injuries sustained. <i>Rex Utilities, Inc. v. Gaddy</i> , 413 So.2d 1232 (Fla. App. 3 Dist. 1982) (petition denied 442 So.2d 843 (Fla.1982))

Required Use of Motorcycle Eye Protection Device:

Requirements:	No persons shall operate motorcycles unless they are wearing an eye-protection device that complies with State standards. §316.211(2)
Sanctions for Failure to Use:	Nonmoving Traffic Violation: A fine of \$30 with court costs of \$6 . §§316.655(1), 318.14 and 318.18(2) and (11)

Required Use of Bicycle Protective Headgear:

Requirements:	A bicycle rider or passenger <16 years old must wear a Federally approved bicycle safety helmet. ⁶⁷ §316.2065(3)(d)
Sanctions for Failure to Use:	Nonmoving Traffic Violation: A fine of \$30 with court costs of \$6 . ⁶⁸ §§316.2065(3)(e) and 318.18(2) and (11)

Required Use of Bicycle Eye Protection Device:

Requirements:	None
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⁶⁴These requirements do not apply under the following circumstances: To persons ≥16 years old who are operating or riding within an enclosed cab; and, to persons ≥16 years old who are operating or riding upon a motorcycle either (1) with a displacement of ≤50 cubic centimeters, (2) with ≤2 brake horsepower or (3) with a speed capability of ≤30 mph. §316.211(3)(a)

⁶⁵**Exemption.** Persons who are over 21 years old may operate or ride on motorcycles without protective headgear provided they have at least \$10,000 in medical benefits for any injuries that they may sustain as a result of crash while riding on such motor vehicle. §316.211(3)(b)

⁶⁶No persons <16 years old shall operate or ride on a moped unless they are wearing protective headgear which complies with Federal standards. §316.211(4)

⁶⁷The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without wearing a bicycle helmet may not be considered as evidence of negligence or contributory negligence. §316.2065(19)

⁶⁸**Historical Note:** Prior to January 1, 1998, a law enforcement officer or crossing guard only issued a bicycle safety brochure and a verbal warning to riders who violated this requirement. They may currently continue to do so or issue a citation. §316.2065(3)(e)

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:⁶⁹

Requirements:

No person shall ride upon any portion of a vehicle that is not intended for passenger use. §316.2015(2)

Sanctions for a Violation:

Nonmoving Traffic Violation: A fine of **\$30** with court costs of **\$6**. §§316.2015(2) and 318.18(2) and (11)

Exemptions:

This prohibition does not apply to an employee engaged in the discharge of official duties, to a person riding within truck bodies in a space intended for merchandise, or to a performer in a professional exhibition or a person participating in a parade. §316.2015(2)

⁶⁹In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

GEORGIA
Code of Georgia Annotated (Code of 1981)

Required Use of Safety Belts:

Requirements:

I. While being transported in a passenger vehicle,⁷⁰ each front-seat occupant (i.e., vehicle operator or passenger) must be restrained by a Federally approved safety belt.⁷¹ §40-8-76.1(b)
II. A driver transporting a minor⁷² >4 years old must secure such child in a Federally approved safety belt. §40-8-76.1(e)(3)
Enforcement. (1) Probable cause for a violation of these requirements must be based upon a law enforcement officer's clear and unobstructed view of the unrestrained person. (2) A violation of these requirements cannot constitute probable cause of any other violation of the law. §40-8-76.1(f)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. For a violation of I above, a fine of not more than **\$15**.⁷³ The law specifically provides that “the costs of ... prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge ... be assessed.” §40-8-76.1(e)(2)
II. For a violation of II above, a fine of not more than **\$25**. §40-8-76.1(e)(3)

Effect on Civil Liability:

Failure of a motor vehicle occupant to comply with these requirements (1) shall not be considered evidence of negligence, (2) shall not otherwise be considered by the finder of fact on any question of liability of any persons, corporation or insurer, (3) shall not be any basis for cancellation of coverage or increase in

⁷⁰For the purposes of the safety belt requirement, the term “passenger vehicle” means every motor vehicle designed to carry 10 passengers or less and used for the transportation of persons but shall not mean pickup trucks, motorcycles, motor driven cycles or vehicles equipped for off-road use. However, such term does include (1) sport utility vehicles and (2) pickup trucks for any occupant who is <18 years old. §40-8-76.1(a) Note: The State Supreme Court has held that this law does not violate constitutional principles of equal protection of the laws even though it excludes adult drivers and passengers from wearing safety belts when operating or riding in pick-up trucks. *Farley v. State*, 531 S.E.2d 100 (Ga. 2000)

⁷¹**Exemptions.** The safety belt use requirement for front seat occupants, who are not minors, does not apply in the following circumstances: (1) To operators or passengers of a motor vehicle making frequent stops to deliver property provided the speed of the vehicle between stops is ≤15 mph; (2) to operators or passengers who are unable to use a safety belt due to medical, physical or other valid reasons; (3) to persons operating passenger vehicles in reverse; (4) to persons riding in vehicles with a model year prior to 1965; (5) to persons riding in vehicles that are not required to have safety belts under Federal law; (6) to rural letter carriers of the U.S. Postal Service while performing official duties; (7) to persons delivering newspapers; and (8) to persons performing emergency services. §40-8-76.1(c)

⁷²The age of legal majority is 18. Until then, a person is considered a minor. §39-1-1(a)

⁷³A violation of this provision is not to be considered a criminal act and is not to be considered a moving violation for purposes of licensing action under §40-5-57. §40-8-76.1(e)(1)

insurance rates, and (4) shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy or operation of a motor vehicle. §40-8-76.1(d)

Required Use of Child Safety Restraint Systems:⁷⁴

Requirements:

A person transporting a child ≤4 years old in a motor vehicle⁷⁵ shall secure such child in a Federally approved child passenger restraint system. However, for children who are either 3 or 4 years old this requirement is satisfied if they are restrained in a safety belt. §40-8-76(b)(1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

First offense⁷⁶ -A fine of not more than **\$50** and 1 point is assessed against an offender's driving record.
Second or subsequent offense -A fine of not more than **\$100** and 2 points are assessed against an offender's driving record. For either a first or subsequent offense, the court is prohibited from imposing additional fees or surcharges. §§40-5-57(c)(1)(A) and 40-8-76(2)

Effect on Civil Liability:

A violation of this requirement shall not constitute negligence per se nor contributory negligence per se.⁷⁷ §40-8-76(d)

Required Use of Motorcycle Protective Headgear:⁷⁸

Requirements:

No person shall operate or ride upon a motorcycle unless he/she is wearing protective headgear that has been approved by the State.⁷⁹ §40-6-315(a)

⁷⁴**Exemption.** This requirement does not apply if a parent or guardian obtains a physician's written statement that explains that a child has a medical condition that prevents him/her from being restrained in a child passenger protection system. §40-8-76(b)(1). **Bicycles.** I. A child <1 year old cannot be transported on a bicycle unless the child is transported either on a bicycle trailer or in an infant sling. §40-6-292(c) II. A child ≥ 1 but ≤4 years old cannot be transported on a bicycle unless the child is transported either in a child passenger bicycle seat, on a bicycle trailer, or in an infant sling. §40-6-292(c). The law specifically provides that a person <16 years old who violates these provisions is subject to neither an imprisonment sentence nor a fine. §40-6-292(f). However, it is a misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. §40-6-298(b) The sanctions of this offense are an imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**. §17-10-3(a)(1) A violation of these provisions shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence or liability. §40-6-292(e)

⁷⁵For purposes of this requirement, motor vehicle includes a passenger automobile, a van, or a pickup truck. However, this term does not include a taxicab or public transit vehicle. §40-8-76(b)(1)

⁷⁶Note: A violation of this requirement shall not be the basis for cancellation of coverage or increase in insurance rates. §40-8-76(d)

⁷⁷Note: A violation of this requirement shall not be the basis for cancellation of coverage or increase in insurance rates. §40-8-76(d)

⁷⁸Note: Failure to wear protective headgear is negligence as a matter of law (i.e., negligence per se). *Green v. Gaydon*, 331 S.E.2d 106 (Ga. App. 1985)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.⁸⁰ §§17-10-3(a)(1) and 40-6-1 Note: It appears that no points are assigned for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle is not equipped with a windshield, no person shall operate or ride on such vehicle unless he/she is wearing an eye-protective device. §40-6-315(b)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**. §§17-10-3(a)(1) and 40-6-1 Note: It appears that no points are assigned for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

When either operating or riding on a bicycle, a person <16 years old shall wear a bicycle helmet that complies with nationally recognized standards.⁸¹ §40-6-296(e)(1) and (2).

Sanctions for Failure to Use:

I. The law specifically provides that a person <16 years old who violates this provision is subject to neither an imprisonment sentence nor a fine. §40-6-296(e)(6).
II. However, it is misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. §40-6-298(b) The sanctions of this offense are an imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**. §17-10-3(a)(1)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:⁸²

Requirements:

A person <18 years old shall not ride in the uncovered bed of a pickup truck on any interstate highway.

⁷⁹This requirement does not apply to either (1) to operators or passengers who are riding within an enclosed cab or motorized cart or (2) to persons who are operating three-wheeled motorcycle used only for agricultural purposes. §40-6-315(c)

⁸⁰An additional fine equal to 5 percent of the original fine is imposed and deposited into the Peace Officer's Annuity and Benefit Fund. §15-21-131

⁸¹A violation of this requirement shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence of liability. §40-6-296(5)

⁸²In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

§40-8-79

Sanctions for a Violation:

A driver who allows a person <18 years old to ride in a pickup truck in violation of this prohibition commits a misdemeanor. The sanctions for this offense are an imprisonment term of not more than **12 months** and/or a fine of not more than **\$1,000**.¹⁰ §§17-10-3(a)(1) and 40-8-79 **Note:** It appears that no points are assigned for a violation of this requirement.

Exemptions:

JURISDICTION:
General Reference:

HAWAII
Hawaii Revised Statutes

Required Use of Safety Belts:⁸³

Requirements:

- I. Before operating motor vehicles, drivers shall restrain themselves and any front- or back-seat passengers between 4 and 14 years old in a Federally approved safety belt. §291-11.6(a)(1)
- II. Before a motor vehicle is operated, a front-seat passenger ≥15 years old shall be restrained in a Federally approved seat belt. §291-11.6(a)(2)
- III. Before a motor vehicle is operated, a back-seat passenger between 15 and 17 years old shall be restrained in a Federally approved safety belt. §291-11.6(a)(3)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation (Non-Criminal): A fine of **\$45** and a surcharge of \$10 to be deposited in the neuro-trauma special fund. §§291-11.6(e) and 701-107(5)

Effect on Civil Liability:

The enactment of the safety belt law does not change existing law concerning personal injury civil actions related to vehicle accidents.⁸⁴ §291-11.6(d)

Required Use of Child Safety Restraint Systems:⁸⁵

Requirements:

Before transporting a child <4 years old in a motor vehicle, the vehicle operator must secure such child in a child passenger restraint system approved by the Federal Government. §291-11.5(a)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation (Non-Criminal): First offense-A fine of not more than **\$100**. Second offense-A fine of not more than **\$200**.

⁸³Exemptions. I. Passengers of either emergency vehicles while on official duties (ambulances, firefighting equipment, rescue vehicles and police vehicles) or mass transportation vehicles with a gross vehicles weight rating >10,000 lbs. (bus, school bus excluding a charter or sightseeing service bus) are exempt from the seat belt requirement. §291-11.6(b)

II. The seat belt use requirement does not apply in the following circumstances: (1) To persons riding in motor vehicles that do not have to have a safety belt under Federal law; (2) to persons who are unable to use a seat belt because all of the available safety belt assemblies are in use; (3) to persons who have a condition that prevents the appropriate use of a seat belt; (4) to persons operating taxicabs. §291-11.6(c)

⁸⁴The Hawaii Supreme Court has indirectly held that a person has no common law duty to mitigate damages by wearing a safety belt. *Kealoha v. County of Hawaii*, 844 P.2d 670 (Hawaii 1993)(reconsideration denied 847 P.2d 263 (Haw.1993).

⁸⁵Exemptions. Operators of emergency, commercial and mass transit vehicles are exempt from the child safety seat requirement. §291-11.5(b). In addition, this requirement does not apply if the number of children to be secured exceeds the number of available seat belt assemblies in the vehicles. However, children that are not secured must be placed in the back seat of the motor vehicle. §291-11.5(c)

HAWAII

Third or subsequent offense-A fine of not more than **\$500**. All offenders are also charged a surcharge of \$10. First and subsequent offenders are required to take a “Child Passenger Restraint System Safety Class” which is not to exceed four hours. Offenders are charged a **\$50** fee to take this course. §§286G-3(a), 291-11.5(e) and 701-107(5)

Effect on Civil Liability:

Failure to comply with this requirement is not considered contributory negligence, comparative negligence or negligence per se. §291-11.5(d)

Required Use of Motorcycle Protective Headgear:⁸⁶

Requirements:

No person <18 years old shall operate or ride on a motorcycle unless he/she is wearing a State-approved safety helmet.⁸⁷ §286-81(a)(3) and (b)

Sanctions for Failure to Use:

Violation (Non-Criminal): A fine of not more than **\$1,000**. §§286-82 and 701-107(5)

Required Use of Motorcycle Eye Protection Device:⁸⁸

Requirements:

No person shall operate or ride on a motorcycle unless he/she wears safety glasses, goggles or a face shield. §286-81(a)(1)(A)

Sanctions for Failure to Use:

Violation (Non-Criminal): A fine of not more than **\$1,000**. §§286-82 and 701-107(5)

Required Use of Bicycle Protective Headgear:

Requirements:

Persons <16 years old shall wear properly fitted and fastened bicycle helmets⁸⁹ when operating bicycles. This requirement also applies to a person who is riding in a restraining seat attached to a bicycle. §291C-150

Sanctions for Failure to Use:

A fine of not more than **\$25**. A parent or legal guardian of a minor in violation of this requirement is liable for paying this fine. §291C-150

⁸⁶The requirement to use a safety helmet does not apply if the motorcycle (1) has three wheels, (2) is powered by an electric motor, (3) has a full body-enclosed cab or (4) has a seat belt assembly or a child restraint system which must be used when the vehicle is in motion. §286-81(c)

Persons Under 7 Years Old. A motorcycle operator shall not carry a child <7 years old on a motorcycle unless such vehicle (1) has three wheels, (2) is powered by an electric motor, (3) has a full body-enclosed cab or (4) has a seat belt assembly or a child restraint system which must be used when the vehicle is in motion. §291-11(a) and (b) A motorcycle operator who violates this provision is subject to a fine of not more than **\$200**. §291-11(c)

⁸⁷The Hawaii Supreme Court has held that a person has no common law duty to mitigate damages by wearing a motorcycle safety helmet. *Kealoha v. County of Hawaii*, 844 P.2d 670 (Hawaii 1993) (reconsideration denied 847 P.2d 263 (Haw.1993)).

⁸⁸The requirement to use an eye protection device does not apply if the motorcycle has a windscreen or windshield. §286-81(a)(1)(A)

⁸⁹The helmet must have been approved by a nationally recognized agency (e.g., the National Highway Traffic Safety Administration, National Safety Council, Children’s Safety Network, et al.).

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. No person shall stand in the bed or load-carrying area of a pickup truck⁹⁰ while such vehicle is in motion. §291-14(a)

II. A driver of a pickup truck shall not allow a passenger to ride seated in the bed of such a truck unless the following three conditions are satisfied: (1) There no seats available in the vehicle's cab; (2) the side racks and the tailgate are respectively securely attached and securely closed; and, (3) the passengers in the bed are seated on the floor and do not attempt to unlash any cargo. §291-14(a)

III. A person shall not operate a pickup truck while any passenger ≤12 years old is in the bed or load-carrying area of the vehicle unless there is an emergency threatening the life of the passenger or the vehicle is being operated in a parade. §291-14(c)

Sanctions for a Violation:

I. It is a Non-Criminal "Violation" to violate either I or II above: Fine of **\$25**. §§291-14(d) and 701-107(5)

II. It is a Non-Criminal "Violation" to violate III above: Fine of **\$50**. §§291-14(d) and 701-107(5)

Exemptions:

These requirements do not apply to persons or corporations that are operating a business that serves the public or are under the supervision of State or local authorities that regulate employees while they carry out their duties. §291-14(b)

⁹⁰For the purposes of this prohibition, a "pickup truck" is defined as "a light truck that has a cab on the front part of the vehicle covering the driver's seat and an open bed behind the cab designed primarily to transport property or cargo, with sides and a tailgate to retain the contents within the confines of the bed, and has a maximum gross vehicle weight rating (GVWR) of 11,000 pounds or less." §291-14(e)

JURISDICTION:
General Reference:

IOWA
Iowa Code Annotated

Required Use of Safety Belts:⁹¹

Requirements:

When a motor vehicle⁹² is in forward motion, the driver and front-seat passengers shall wear safety belts or safety harnesses. §321.445(2) The State Supreme Court has held that the safety belt law does not violate constitutional privacy or due process of law requirements. *State v. Hartog*, 440 N.W.2d 852 (Iowa 1989)(cert. denied 493 U.S. 1005, 10 L.Ed.2d 563, 110 S. Ct. 569 (1989)).

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Simple Misdemeanor but Considered a Scheduled Violation: A fine of **\$25**. §§321.482, 805.8 and 805.8A(14)(c). Note: In determining license suspension action, the State is not to consider a violation of this requirement. §321.210(2)(b)

Effect on Civil Liability:

The failure to comply with this requirement shall not be considered evidence of comparative fault. However, such failure may be admitted to mitigate damages under certain circumstances.⁹³ §321.445(4)(b) The State Supreme Court has held that this provision does not violate constitutional requirements concerning equal protection of the laws. *Duntz v. Zeimet*, 478 N.W. 2d 635 (Iowa 1991)

Required Use of Child Safety Restraint Systems:⁹⁴

Requirements:

I. A child <3 years old, while being transported in a motor vehicle that is "subject to [State] registration," shall be secured in a Federally approved child restraint system. §321.446(1)

⁹¹**Exemptions.** The requirement to wear a safety belt or safety harness does not apply in the following circumstances: (1) To persons driving or riding in vehicles that are not required to have safety belts; (2) to drivers or passengers who are frequently alighting or reentering a motor vehicle for employment purposes and where the vehicle does not exceed 25 mph between stops; (3) to letter carriers of the U.S. Postal Service when performing their duties; (4) to passengers on a bus; (5) to persons, who for medical or physical reasons, cannot wear a safety belt; and (6) except for the driver, front seat occupants of an emergency vehicle when such occupants are being transported in an emergency. §321.445(2)

⁹²A "motor vehicle" does not include a motorcycle or motorized bicycle. §321.445(2)

⁹³The defendant in a civil action (1) must introduce "substantial evidence" that the failure to use a safety belt or safety harness contributed to the plaintiff's injuries and (2), if such is established, the plaintiff's recovery may be reduced by 5 percent. §321.445(4)(b)(1) and (2)

⁹⁴**Exemptions.** These requirements do not apply to children riding (1) in school buses, (2) on motorcycles, (3) in motor vehicles operated by law enforcement officers acting on official duty; (4) in motor vehicles with a model year of 1965 or older; (5) in authorized emergency vehicles; and (6) in motor homes except when riding in the passenger seat "situated directly" to the right of the driver. In addition, there is an exemption in cases of children who have a medical, physical, or mental condition that prevents or makes inadvisable the securing of a child in a child restraint system, safety belt, or safety harness. §321.446(1), (2) and (3)

Required Use of Child Safety Restraint Systems:
(continued)

	II. A child ≥ 3 but < 6 years old, while being transported in a motor vehicle that is “subject to [State] registration,” shall be secured in either a Federally approved child restraint system, a safety belt, or a safety harness. §321.446(2)
Sanctions for Failure to Require the Use of Child Restraint Systems:	Misdemeanor but Considered a Scheduled Violation: A fine of \$25 . §§321.446(4), 805.8 and 805.8A(14)(c). First offenders who prove purchase or acquisition of a child restraint system “shall not be convicted.” §321.446(5). Note: In determining license suspension action, the State is not to consider a violation of this requirement. §321.210(2)(b)
Effect on Civil Liability:	Failure to use a child restraint system, safety belt or safety harness does not constitute negligence nor is such failure admissible as evidence in a civil action. §321.446(6)

Required Use of Motorcycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:⁹⁵

Requirements:

A passenger shall not ride on any part of any vehicle unless it is expressly designed either for passenger use or designed for carrying livestock, merchandise or freight. §321.455

Sanctions for a Violation:

Simple Misdemeanor but Considered a Scheduled Violation: A fine of **\$25**. §§321.482 and 805.8(2)(m)

Exemptions:

⁹⁵In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

IDAHO
Idaho Code (General Laws of Idaho Annotated)

Required Use of Safety Belts:⁹⁶

Requirements: All occupants of a motor vehicle⁹⁷ shall be secured in a safety belt when the vehicle is in motion. §49-673(1)

A citation also may be issued to the operator of the motor vehicle if the operator is age 18 or older and any occupant under 18 years of age fails to wear a safety restraint as required in this section. For purposes of this paragraph {(a)(ii)}, it shall be deemed a single violation regardless of the number of occupants not properly restrained. §49-673 (a)(ii)

Secondary Enforcement. Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when the operator of the motor vehicle has been detained for a suspected violation of another law. § 49-673 (5)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of \$10. §49-673(3)(b) Note: A conviction for this infraction shall neither result in points being assigned to a person's driving record nor be deemed a moving violation for the purpose of establishing rates of motor vehicle insurance. §49-673(3)(b)

Effect on Civil Liability:

The failure to use a safety belt shall not be considered any circumstances as evidence of contributory or comparative negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence. §49-673(8)

Required Use of Child Safety Restraint Systems:⁹⁸

Requirements:

A person, transporting a child <4 years old and weighing <40 lbs. in a noncommercial motor vehicle⁹⁹ shall secure such child in a "car safety seat" that meets Federal requirements. §49-672(1)

⁹⁶**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who are unable to use a safety belt for medical reasons; (2) to persons riding on motorcycles, using implements of husbandry and occupying emergency vehicles; (3) to persons riding in the motor vehicle when all of the available safety belts are already in use; and (4) to mail carriers. §49-673(2)

⁹⁷This requirement applies only to motor vehicles which have a gross vehicle weight of ≤8,000 lbs. and that comply with Federal Motor Vehicle Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). §49-673(1). Note: This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

⁹⁸**Exemptions.** This requirement does not apply in the following circumstances: (1) If all of the vehicle's seat belts are in use (however, the child must be placed in the vehicle's rear seat.); or, (2) if the child is held by an attendant for the purpose of nursing the child or attending to the child's other immediate physiological needs. §49-672(1)(a) and (b)

⁹⁹This requirement applies to motor vehicles that were manufactured with seat belts after January 1, 1966.

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: A fine of not more than \$100. §§18-113A, 49-110(5) and 49-236(2.) Note: The law does not assign points for a violation of this requirement.

Effect on Civil Liability:

The failure to use a child safety seat shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible in any civil action with regard to negligence. §49-673 (8).

Required Use of Motorcycle Protective Headgear:

Requirements:

No person <18 years old shall operate or ride on a motorcycle unless they are wearing a State-approved protective safety helmet. §49-666

Sanctions for Failure to Use: Infraction: A fine of not more than **\$100**. §§18-113A, 49-110(5) and 49-236(2) Note: The law does not assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured

Portion of Vehicle:

Requirements:

None¹⁰⁰

Sanctions for a Violation:

Exemptions:

¹⁰⁰Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:

ILLINOIS

General Reference:

West's Smith-Hurd Illinois Compiled Statutes
Annotated

Required Use of Safety Belts:¹⁰¹

Requirements:

I. A driver and front seat passengers shall wear safety belts when a motor vehicle is in operation.¹⁰² §625 ILCS 12-603.1(a)¹⁰³

II. A driver, who is <18 years old, and each of such driver's passengers, who are <18 years old, must wear a safety belt when a motor vehicle is in operation.¹⁰⁴ §625 ILCS 12-603.1(a)

III. A motor vehicle operator transporting a child ≥ 8 but <16 years old shall secure such child in a safety belt. §625 ILCS 12-603.1(a)

Primary Enforcement. (But) a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a seat belt violation. §625 ILCS 12-603.1(f)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Offense: A fine of not more than \$25.² §625 ILCS 5/12-603.1(d) **Note:** The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

Failure to wear a safety belt in violation of the law shall not be considered evidence of negligence, shall not limit the liability of an insurer and shall not diminish any recovery for damages arising out of the ownership,

¹⁰¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To a driver or passengers who are operating or riding in a motor vehicle that makes frequent stops for the purpose of delivering property and provided the speed of the vehicle between stops is ≤15 mph; (2) to drivers and passengers who for medical or physical reasons cannot wear seat belts; (3) to a driver operating a motor vehicle in reverse; (4) to persons operating or riding in motor vehicles either with a model year prior to 1965 or that are not required by Federal law to have seat belts; (5) to persons operating or riding on motorcycles, motor driven cycles, or motorized pedalcycles; and (6) rural letter carriers. §625 ILCS 5/12-603.1(b)

¹⁰²**School Bus Operators.** “No school bus shall be operated unless the driver has properly restrained himself with the lap belt assembly.” §625 ILCS 5/12-807 A person who is convicted of violating this requirement is subject to the following sanctions. Either a first or second violation of this requirement are petty offenses with a fine of not more than **\$1,000**. A third violation (within 1 year) is a Class C Misdemeanor with an incarceration term of not more than **30 days** and/or a fine of not more than **\$1,500**. §§625 ILCS 5/16-101 and 16-104 and §§730 ILCS 5/5-8-3(a)(3) and 5-9-1(a)(3)

¹⁰³The State Supreme Court has held that this statute “does not violate the due process clauses of the State and Federal constitutions.” *State v. Kohrig*, 498 N.E.2d 1158 (Ill. 1986) (Appeal was dismissed by the U.S. Supreme Court for want of a substantial federal question. 479 U.S. 1073 (1987))

¹⁰⁴I. Under separate provisions of law, a person <18 years old is not to operate a motor vehicle either with more than one passenger in the front seat or with more passengers in the back seats than there are safety belts. A driver less than 18 years old when operating a second division vehicle, that has only a front seat and that weights ≤8,000 lbs., may transport more than one person in the front seat provided each passenger is wearing a safety belt. §625 ILCS 5/12-603(b-5). II. A person violating these requirements is subject to the following sanctions. A first and second offense is a Petty Offense and the offender is subject to a fine of not more than **\$1,000**. A third or subsequent offense (within 1 year) is a Class C Misdemeanor and the offender is subject to an imprisonment term of not more than **30 days** and/or a fine of not more than **\$1,500**. §§625 ILCS 5/16-104, 730 ILCS 5/5-8-3(a)(3) and 730 ILCS 5/5-9-1(a)(3) and (4)

maintenance or operation of a motor vehicle. §625
ILCS 5/12-603.1(c)

Required Use of Child Safety Restraint Systems:¹⁰⁵

Requirements:

- I. A person transporting a child under the age of 8 in a motor vehicle¹⁰⁶ shall secure such child in a child restraint system that has been approved by the Federal Government.¹⁰⁷ §625 ILCS 25/4
- II. The parent or legal guardian of a child under the age of 8 shall provide a child restraint system to any person who transports his or her child. Any person who transports the child of another shall not be in violation of this Section unless a child restraint system was provided by the parent or legal guardian but not used to transport the child. §625 ILCS 25/4
- III. Every person when transporting a child 8 or older but under the age of 16 shall be responsible for properly securing that child in a safety belt. §625 ILCS 25/4(a)
- IV. (But) a child weighing more than 40 pounds may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt. §625 ILCS 25/4(a)
- V. A person who is <18 years old when transporting a child who is ≥8 but <18 years old in a motor vehicle⁶ must secure such child in a safety belt or an appropriate child restraint system. §626 ILCS 25/4b

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Petty Offense: First offense: A fine of not more than \$25 Subsequent offense: A fine of not more than \$100
§625 ILCS 25/6 Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

In no event shall a person's failure to secure a child under age 8 as provided by law constitute contributory negligence or be admissible as evidence in the trial of any civil action. §625 ILCS 25/5

¹⁰⁵**Exemptions.** The requirement to use a child passenger restraint system or seat belt does not apply with respect to children who have a physical disability of such a nature as to prevent the proper use of such a system or belt. §625 ILCS 25/7

¹⁰⁶For the purposes of this requirement, a "motor vehicle" means (1) a non-commercial motor vehicle of the first division, (2) a motor vehicle of the second division with a gross vehicle weight rating ≤9,000 lbs., or (3) a recreational vehicle. §625 ILCS 25/4 Note: A "first division" motor vehicle is one designed to carry not more than 10 persons. A "second division" motor vehicle is either (1) one that is designed carry 10 or more persons, (2) one that has living quarters, (3) one that is designed to either pull/ carry freight or cargo or (4) one that is an implement of husbandry. §625 ILCS 5/1-146

¹⁰⁷For children <8 years old, the parent or legal guardian shall provide a child restraint system to any person who is transporting his/her child. A person who transports a child of another that is not restrained in such a system is not in violation of this requirement unless such a system was provided to the person. §625 ILCS 25/4

Required Use of Motorcycle Protective Headgear:

Requirements:	None ¹⁰⁸ Note: “No unit of local government, including a home rule unit, may enact an ordinance requiring motorcycle users to wear protective headgear.” §625 ILCS 5/11-208(e)
Sanctions for Failure to Use:	

Required Use of Motorcycle Eye Protection Device:

Requirements:	A person who operates or rides on a motorcycle, motor driven cycle or motorized pedalcycle must be protected by glasses, goggles or a transparent shield. ¹⁰⁹ §625 ILCS 5/11-1404(a)
Sanctions for Failure to Use:	<u>First and second offenses</u> (petty offense)-A fine of not more than \$1,000 . <u>Third or subsequent offense</u> (within 1 years) (Class C Misdemeanor)-An imprisonment term of not more than 30 days and/or a fine of not more than \$1,500 . §§625 ILCS 5/16-104, 730 ILCS 5/5-8-3(a)(3) and 730 ILCS 5/5-9-1(a)(3) and (4). Five points are assessed against a person's driving record a violation of this requirement. 92 Illinois Administrative Code §1040.20(c)

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	None ¹¹⁰
Sanctions for a Violation:	
Exemptions:	

¹⁰⁸Failure to wear protective headgear is not considered to be comparative negligence and thus cannot be used as evidence to mitigate damages. *Hukill v. DiGregorio*, 484 N.E.2d 795 (Ill. App. 2 Dist. 1985)

¹⁰⁹Contact lenses are not acceptable eye protection devices. §625 ILCS 5/11-1404(c)

¹¹⁰Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for persons <18 years old and certain children via the provisions of the Safety Belt Use and Child Safety Restraint Systems laws.

JURISDICTION:
General Reference:

INDIANA
Burn's Indiana Statutes Annotated and Indiana
Administrative Code (IAC)

Required Use of Safety Belts:¹¹¹

Requirements:

When a passenger motor vehicle¹¹² is in motion, the driver and every front seat passenger shall be secured in a safety belt. §9-19-10-2

Primary Enforcement. A vehicle may be stopped to determine compliance with this requirement. However, neither the vehicle, its contents, driver, nor passengers may be searched. §9-19-10-3 and *Baldwin v. Reagan*, 715 N.E.2d 332 (Ind. 1999)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Class D Infraction: A fine of not more than **\$25**. §§9-19-10-8(a) and 34-28-5-4(d). **Note:** Points may not be assessed against a person's driving record for a violation of this requirement. §9-19-10-8(b)

Effect on Civil Liability:

Failure to comply does not constitute fault and does not limit the liability of an insurer. §9-19-10-7(a). Except in product liability situations, a failure to comply may not be admitted in a civil action to mitigate damages. §9-19-10-7(b) and (c)

Required Use of Child Safety Restraint Systems:¹¹³

Requirements:

I. Before operating a motor vehicle, a driver must secure a child ≥ 4 but < 12 years old in a child passenger restraint system or safety belt. §9-19-10-2.5

II. Before operating a motor vehicle, a driver must secure a child who is < 4 years old in either a child passenger restraint system or, if the child will not fit in such a system, a safety belt. §§9-19-11-2 and 9-19-11-3,

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Class D Infraction: A fine of not more than **\$25**.¹¹⁴

¹¹¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons who cannot wear a safety belt for medical reasons; (2) to children who are required to use a child passenger restraint system; (3) to persons traveling in commercial or U.S. Postal Service vehicles that make frequent stops for the purpose of picking up or delivering goods and services; (4) to rural letter carriers of the U.S. Postal Service when performing official duties; (5) to persons delivering newspapers; and (6) to persons performing the duties of a driver license examiner. §9-19-10-1

¹¹²The requirement to wear a safety belt applies to passenger motor vehicles that are equipped with safety belts that meet Federal Motor Vehicle Safety Standards (49 CFR 571.208) §9-19-10-2 For the purpose for safety belt usage, the term "passenger motor vehicle" is defined as "a motor vehicle designed for carrying passengers" which includes buses, school buses and private buses but excludes trucks, tractors and recreational vehicles. §9-13-2-123(b)

¹¹³**Exemptions.** The requirement that certain children use either a child passenger restraint system or seat belt does not apply to drivers operating either (1) a school bus, (2) a taxicab, (3) a rental vehicle for ≤ 30 days, (4) an ambulance, (5) vehicles not registered in Indiana and operated for ≤ 60 days, (6) a public passenger bus, (7) a vehicle with a seating capacity > 9 individuals and owned by a religious or not-for-profit organization, (8) an antique motor vehicle, (9) a motorcycle, (10) a motor vehicle owned or leased by a governmental unit and that is being used for law enforcement duties and (11) a motor vehicle that is being used in an emergency. §9-19-11-1

INDIANA

§§9-19-10-2.5, 9-19-11-2, 9-19-11-3 and 34-28-5-4(d)

Note: An abstract of a violation of this requirement is forwarded to the bureau of motor vehicles for inclusion in the person's driving record. §9-19-11-7 Four (4) points are assessed against a person's driving record. 140 IAC §1-4.5-10

Effect on Civil Liability:

Failure to comply with this requirement does not constitute contributory negligence. §9-19-11-8

Required Use of Motorcycle Protective Headgear:

Requirements:

A person <18 years old shall wear State-approved protective headgear when operating or riding on a motorcycle or motorized bicycle. §§9-19-7-1(1), 9-21-10-9 and 9-21-11-13

Sanctions for Failure to Use:

Class C Infraction: A fine of not more than **\$500**. §§9-19-7-3, 9-21-11-14 and 34-28-5-4(c). Four points are assessed against a person's driving record. 140 IAC §1-4.5-10

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person <18 years old shall wear protective glasses, goggles or transparent face shield when operating or riding on a motorcycle or motorized bicycle. §§9-19-7-1(2), 9-21-10-9 and 9-21-11-13

Sanctions for Failure to Use:

Class C Infraction: A fine of not more than **\$500**. §§9-19-7-3, 9-21-11-14 and 34-28-5-4(c)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None¹¹⁵

¹¹⁴This sanction does not apply to first offenders who possess a child passenger restraint system. §9-19-11-5

¹¹⁵Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

Sanctions for a Violation:

Special note on Air Bag Tampering:

Sec. 9-19-10.5

Inflatable Restraint Systems

Sec. 1. As used in this chapter, "inflatable restraint system" means an air bag that is activated in a crash.

Sec. 2. A person may not knowingly or intentionally install in a motor vehicle, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle.

Sec. 3. A person may not knowingly or intentionally: (1) sell, (2) lease, (3) trade, or (4) transfer a motor vehicle in which is installed, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle to an Indiana resident.

Sec. 4. A person who violates section 2 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if a person in a motor vehicle is injured as a result of the air bag tampering.

Sec. 5. A person who violates section 3 of this chapter commits a Class D felony.

JURISDICTION:
General Reference:

KANSAS
Kansas Statutes Annotated

Required Use of Safety Belts:¹¹⁶

Requirements:

When a passenger car¹¹⁷ is in operation, each front-seat occupant must be secured in a safety belt. §8-2503(a)
Secondary Enforcement. A vehicle shall not be stopped for a violation of this requirement in the absence of another violation. A citation for a violation of this requirement cannot be issued unless a citation is issued for the violation that caused the stop. §8-2503(e)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A fine of **\$10**. §8-2504(a)(2) A court is not to report a violation of this requirement to the department of revenue. §8-2504(b). Note: This offense appears to be a misdemeanor. §§8-2116(b) and 21-3105.

Effect on Civil Liability:

Evidence of failure to use a safety belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. §8-2504(c)

Required Use of Child Safety Restraint Systems:

Requirements:

I. A driver of a passenger car shall properly restrain a child <4 years old in a Federally approved child safety restraining system. §8-1344(a)
II. A driver of a passenger car shall properly restrain a child >4 but <14 years old in a in a safety belt.¹¹⁸ §8-1344(b)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

A fine of **\$20**. Note: A violation of this requirement is not a moving violation for licensing sanctions purposes. §8-1345(a). \$10 and court costs shall be waived upon

¹¹⁶**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To passengers who are unable to wear a safety belt for medical reasons; (2) to carriers of U.S. mail when on actual duty delivering and collecting the mail; (3) to persons who are in the process of delivering newspapers; and (4) to persons who are required to be secured in a child passenger restraint system. §8-2503(b)

¹¹⁷A "passenger car" is defined as a motor vehicle (including vans) designed to carry ≤10 persons. However, such definition does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis with a gross vehicle weight of >12,000 lbs. or a farm truck with a gross weight >16,000 lbs. §§8-1343a and 8-2502 In addition, for safety belt use law only, the term "passenger car" excludes a vehicle constructed with special features for occasional off-road operation. §8-2502 For both safety belt and child protection laws, "passenger car" means those vehicles that comply with Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). §§8-1344(b) and 8-2503(a). Note: This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

¹¹⁸This requirement does not apply if all of the available seating positions with safety belts are occupied. §8-1344(b)

Sanctions for Failure to Require
the Use of Child Restraint Systems:
(continued)

proof that the offender purchased or acquired a child restraint system. §8-1345(b). **Note:** This offense appears to be a misdemeanor. §§8-2116(b) and 21-3105.

Effect on Civil Liability:

Evidence of failure to secure a child as required shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. §8-1345(d). The law has been interpreted to include “misuse” as well as “nonuse.” *Watkins v. Hartsock*, 783 P.2d 1293 (Kan. 1989) In addition, failure to employ a child passenger restraint system shall not constitute negligence per se. §8-1346.

Required Use of Motorcycle Protective Headgear:

Requirements:

No person <18 years old shall operate or ride upon a motorcycle or motorized bicycle unless he/she is wearing a helmet that satisfies Federal standards. §8-1598(a). This requirement does not apply if the person is riding in an enclosed cab, golf cart, or industrial (cargo-type) vehicle having three wheels (i.e., a truckster). §8-1598(c)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not more than **\$500**. Thirty dollars (\$30) if a person pleads guilty or no contest under the uniform fine schedule. §§8-2116(a), 8-2118(c), 21-3105 and 21-4503a(d).

Required Use of Motorcycle Eye Protection Device:¹¹⁹

Requirements:

No person shall operate a motorcycle unless they are wearing an eye-protection device (i.e., protective glasses, goggles or transparent shields which are shatterproof and impact-resistant). This requirement does not apply if the motorcycle is equipped with a windscreen. §8-1598(b)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not more than **\$500**. Thirty dollars (\$30) if a person pleads guilty or no contest under the uniform fine schedule. §§8-2116(a), 8-2118(c), 21-3105 and 21-4503a(d).

Required Use of Bicycle Protective Headgear:

Requirements:

None

Required Use of Bicycle Eye Protection Device:

¹¹⁹This requirement does not apply to persons who are riding within an enclosed cab, a golf cart, or any industrial (e.g., cargo-type) vehicle which has three wheels and which is commonly known as a truckster. §8-1598(c)

Requirements:

NoneProhibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A person <14 years old is prohibited from riding upon any portion of a vehicle not designed to intended for passenger use. §8-1578a(a)

II. A driver is not to allow a person <14 years old to ride upon any portion of a vehicle not designed to intended for passenger use. §8-1578a(b)

Note: (1) The above requirements only apply when the vehicle is being operated within the corporate limits of a city or on the State highway system. §8-1578a(d) And, (2) Child Safety Restraint Requirements may also apply.

Sanctions for a Violation:

Traffic Infraction: A fine of not more than **\$500**. Sixty dollars (\$60) if a person pleads guilty or no contest under the uniform fine schedule.

§§8-2116(a), 8-2118(c), 21-3105 and 21-4503a(d).

Exemptions:

This requirement does not apply (1) to an employee <14 years old who is engaged in the necessary discharge of an employer's duties within a truck body which is intend for merchandise or cargo or (2) vehicles being operated in parades, caravans, or exhibitions. §8-1578a(c).

Required Use of Bicycle Protective Headgear:

Requirements:

Persons <16 years shall not operate or ride bicycles unless they wear properly fitted and fastened bicycle helmets which meet national standards.¹²⁰ Title 21, §4198L(a)

Sanctions for Failure to Use:

A child's guardian who fails to cause the child to wear such helmet is subject to a fine. First offense - \$25. Subsequent offense - \$50 Title 21, §4198L(b)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

¹²⁰Failure to wear a bicycle safety helmet shall not be considered evidence of either comparative or contributory negligence in any civil suit nor shall such evidence be admissible as evidence in the trial of any civil action. Title 21, §4198L(e)

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None**¹²¹

Sanctions for a Violation:

Exemptions:

¹²¹Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

KENTUCKY
Kentucky Revised Statutes

Required Use of Safety Belts:¹²²

Requirements:

No person shall operate a motor vehicle¹²³ (manufactured after 1965) unless the driver and all passengers are wearing safety belts.
§189.125(6)
Secondary Enforcement. A law enforcement officer shall not stop or seize a person nor issue a citation for a violation of this requirement unless the officer has stopped or seized the person for some other violation of the law.
§189.125(7)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation. A fine of not more than **\$25**.
§§189.990(25) and 532.020(4). Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

Failure of any person to wear a safety belt shall not constitute negligence per se.¹²⁴ §189.125(5)

Required Use of Child Safety Restraint Systems:

Requirements:

When transporting a child ≤40 inches in height, a driver of a motor vehicle² shall secure such child in a Federally approved child restraint system. §189.125(3) and (4)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation. A fine of **\$50**. §§189.990(24) and 532.020(4). Note: The law does not appear to assign points for a violation of this requirement.
Assessment. In addition to any fine, an offender must pay a special assessment of **\$10** that is deposited into the Traumatic Brain Injury Trust Fund. §189.990(26)

Effect on Civil Liability:

Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure be admissible as evidence in the trial of any civil action. §189.125(5)

¹²²**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who because of medical or physical conditions cannot wear seat belts; and (2) to letter carriers of the U.S. Postal Service while they are performing their duties. §189.125(6)

¹²³A "motor vehicle" includes a vehicle that is designed to carry ≤10 persons and that was manufactured after 1965. However, the term does not include (1) motorcycles, (2) motor driven cycles, or (3) farm trucks having a gross weight ≥1 ton. §189.125(1)

¹²⁴In a case decided prior to the enactment of the safety belt use law, the State Supreme Court held that evidence of safety belt nonuse could be introduced for the jury's consideration in awarding damages to plaintiffs involved in automobile accidents. *Wemyss v. Coleman*, 729 S.W.2d 174 (Ky. 1987)

Required Use of Motorcycle Protective Headgear:

Requirements:	The following persons are required to wear State-approved protective headgear when operating or riding as a passenger on a motorcycle: (1) operators or passengers who are <21 years old (including passengers <21 years old who are riding in sidecar attachments); (2) any operator who possesses a motorcycle instruction permit; and (3) any operator who has possessed a motorcycle operator's permit for <1 year. §189.285(3)
Sanctions for Failure to Use:	Violation. A fine of not less than \$20 nor more than \$100 . §§189.990(1) and 532.020(4). Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:	When operating a motorcycle, a person must use a State-approved eye-protection device. §189.285(1)(b)
Sanctions for Failure to Use:	Violation. A fine of not less than \$20 nor more than \$100 . §§189.990(1) and 532.020(4). Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	None ¹²⁵
Sanctions for a Violation:	
Exemptions:	

¹²⁵Even though there is no statutory authority prohibiting this activity, the Safety Belt Use and Child Safety Restraint Systems laws may indirectly establish such a prohibition for all passengers.

JURISDICTION:
General Reference:

LOUISIANA
West's Louisiana Statutes Annotated: Revised Statutes

Required Use of Safety Belts:¹²⁶

Requirements:

When a motor vehicle¹²⁷ is in forward motion, the driver and every front seat passenger shall wear a safety belt. §32:295.1(A) and (B)

Primary Enforcement. “Probable cause for violation of the section shall be based solely upon a law enforcement officer’s clear and unobstructed view of a person not restrained as required by this section. A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section.” § 32:295.1(F). But see *State v. Young*, 820 So.2d 1182 (La.App. 4 Cir. 2002) and *State v. Lee*, 836 So.2d 589 (La.App. 5 Cir. 2002), where the plain view exception was applied to allow warrantless seizures.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: First offense-A fine of \$25 including court costs. Second offense-A fine of \$50 including court costs third and subsequent offense-A fine of \$50 plus court costs. §§ 14:7, 32:295.1(G)(1) and Code of Crim. Proc., Arts. 933 and 934. Note: Notwithstanding any other provision of law, these are the only fines and costs that can be assessed against an offender. §32:295.1(G)(2)

Effect on Civil Liability:

Failure to wear a safety belt shall not be considered evidence of comparative negligence and shall not be admitted to mitigate damages. §32:295.1(E)¹²⁸

¹²⁶**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To rural letters carriers of the U.S. Postal Service while performing official duties; (2) to persons operating a farm vehicle with 5 miles of its principal place of use; (3) to persons delivering newspapers; and (4) to persons who have a physical or mental condition that prevents the use of a safety belt. In order to identify persons who satisfy this last exemption, a special vehicle tag is issued or a notation on the driver’s license is made. §32:295.1(C) and (D)

¹²⁷The requirement to use a safety belt applies to passenger cars, vans, trucks having gross vehicle weight ≤10,000 lbs. (commonly referred to as pickup trucks), and autocycles. However, the requirement does not apply to persons who are operating or riding in such vehicles manufactured prior to January 1, 1981. §32:295.1(A)(1), (A)(2) and (B). Note: Not later than June 30, 2004, every school bus (public or private) must be equipped with occupant restraint systems. §17:164.2. “Autocycle” is defined as “an enclosed motorcycle that is equipped with safety belts, rollbar, windshield wipers, steering wheel, and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time.” §32:1(1.1)

¹²⁸This statute was applied in *Keeth v. Dept. of Public Safety and Tran.*, 618 So2d 1154 (La. App. 2 Cir. 1993), and *Miller v. Coastal Corp.*, 635 So.2d 607 (La. App. 3 Cir. 1994). Cf. *Fedele v. Tuyague*, 717 So.2d 244 (La. App. 4 Cir. 1998).

Required Use of Child Safety Restraint Systems:¹²⁹

Requirements:

A child younger than 6 years of age or weighing 60 pounds or less shall be restrained in a child restraint system that complies with standards of the United States Department of Transportation and is secured in the vehicle in accordance with the instructions of the manufacturer of the child restraint system and the passenger seating position is equipped with a safety belt system that allows sufficient space for installation. The child restraint system required for a child younger than 6 years of age or weighing 60 pounds or less is, in descending order of protectiveness, as follows:

(a) A child who is younger than 1 year of age or weighs less than 20 pounds shall be restrained in a rear-facing child safety seat.

(b) A child who is at least 1 year of age but younger than 4 years of age or who weighs at least 20 pounds but less than 40 pounds shall be restrained in a forward-facing child safety seat.

(c) A child who is at least 4 years of age but younger than 6 years of age or who weighs at least 40 pounds but not more than 60 pounds shall be restrained in a child booster seat. The requirements of this subparagraph shall not apply in any seating position where there is only a lap belt available and the child weighs more than 40 pounds.

(2) A child who is at least 6 years of age or weighs more than 60 pounds shall be restrained with the motor vehicle's safety belt adjusted and fastened around the child's body or in an appropriately fitting child booster seat in accordance with the instructions of the manufacturer of the safety belt or child booster seat.

(3) A child who because of age or weight can be placed in more than one category shall be placed in the more protective category. §32:295(A)

When the vehicle is equipped with a passenger side air bag supplemental restraint system, and the air bag system is activated, the driver of a vehicle transporting a child who is younger than 6 years of age or weighs less than 60 pounds shall transport the child in the rear seat positions in the vehicle, if rear seats are available. §32:295(C).

¹²⁹**Exemptions.** The requirement to use child passenger restraint requirement does not apply in the following circumstances: (1) To children being transported in a motor vehicle that is being used as an ambulance or other emergency vehicle; (2) to adults or applicable children where an emergency exists which would threaten the life of any person; and (3) to children who, because of medical reasons, cannot be secured in a child passenger safety system or safety belt. §32:295(E)

Required Use of Child Safety Restraint Systems
(continued)

When the number of children under the age of 13 in the motor vehicle exceeds the number of age- or size-appropriate passenger restraint systems and seat belts available in the motor vehicle, the unrestrained children shall be seated in a rear seat, if rear seats are available. §32:295(D)

A violation involving failure to secure a child in any type of child restraint system shall be a primary offense. However, failure to secure a child in the age- or size-appropriate restraint shall be a secondary offense and a driver may be cited only if stopped for a moving violation. §32:295(H)

Sanctions for Failure to Require
The Use of Child Restraint Systems:

Any person whose violation is limited to failure to utilize an age- or size-appropriate child restraint system to secure an otherwise restrained child shall not be fined more than \$25 including fees and court costs. §32:295(H)(2)

Otherwise, first offense-a fine of **\$50**; second offense-a fine of **\$100**; third and subsequent offense-a fine of **\$100** and all court costs.¹³⁰ §32:295(H)(1) and Code of Crim. Proc., Arts. 933 and 934. In addition to any fine, a person who leaves a child unrestrained is subject to having his/her driving privileges suspended until he/she presents proof to the court that an appropriate passenger restraint system has been acquired. §32:295(I)(1)

Note: The failure to use a child safety seat system shall not be considered a moving violation. §32:295(F)

Effect on Civil Liability:

The failure to secure a child passenger safety seat system shall not be considered as comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. §32:295(F)

Required Use of Motorcycle Protective Headgear:¹³¹

Requirements:¹³²

I. No person <18 years old shall operate or ride on a motorcycle, motor driven cycle or motorized bicycle

¹³⁰ A person cannot be charged with a subsequent offense until after 24 hours have elapsed between offenses. §32:295(G)

¹³¹ Failure to wear a safety helmet is considered negligence. As a result, a motorcycle operator or passenger who is injured in a traffic accident while riding on a motorcycle without wearing appropriate headgear can have any damages for injuries awarded to them reduced because of such a failure. *Landry v. Doe*, 597 So.2d 14 (La. App. 1 Cir. 1992)

¹³² I. These requirements do not apply to “off-road vehicles” that are being used for farm-related activities and that are being driven on the shoulders of roads except interstate highways. §32:299 (B) **Note:** The law pertaining to “off-road vehicles” does not apply to the roads in Orleans Parish. §32:299(D)

II. These requirements “do not apply to persons operating or riding in an autocycle if the vehicle is equipped with a roof which meets or exceeds standards for a safety helmet.” §32:190(D)

Required Use of Motorcycle Protective Headgear unless they are wearing a State-approved safety helmet. §32:190(A)(1)
(continued)

II. Any person ≥18 years old, who chooses not to wear a helmet, while operating or riding the motor vehicles in I, shall be covered by health insurance that has at least \$10,000 in benefits for bodily injuries.
§32:190(A)(2)
Note: A person may obtain an exemption from these requirements when participating in an authorized parade or other public exhibition. §32:190©

Sanctions for Failure to Use: Misdemeanor. A fine of \$50 that includes all court costs. §§14:7, 32:190(F) and Code of Criminal Proc., Arts. 933 and 934.

Required Use of Motorcycle Eye Protection Device:

Requirements: No person shall operate a motorcycle, or motor driven cycle unless he/she is wearing a State-approved eye protection device. This requirement does not apply if the vehicle is equipped with windshield or to persons riding within an enclosed cab. §32:190.1

Sanctions for Failure to Use: Misdemeanor. First offense-An imprisonment for not more than 30 days and/or a fine of not more than **\$175**. Subsequent offense- Imprisonment for not more than **90 days** and/or a fine of not more than **\$500**. §§14:7, 32:57(A) and Code of Crim. Proc., Arts. 933 and 934.

Required Use of Bicycle Protective Headgear:¹³³

Requirements: A parent, guardian, or other person responsible for a child's safety and welfare shall not "knowingly allow" a child <12 to operate or ride as a passenger on a bicycle without wearing an "approved helmet."¹³⁴
§32:199(B)(1).

Sanctions for Failure to Use: Even though a citation can be issued for a violation of this requirement, the law specifically provides that "no civil penalties or court costs shall be assessed for any violation of this section." §32:199(F).

Note: The law provides that a citation for a violation of this section is not *prima facie* evidence of negligence.

¹³³ The law also provides that a parent, guardian or other person responsible for a child's safety and welfare shall not "knowingly allow" a child who weighs <40 lbs. or is <40 inches in height to be a passenger on a bicycle unless he/she is "properly seated in and adequately secured to a restraining seat." §32:199(B)(2). A "restraining seat" is defined to mean "a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle." §32:199(A)(5).

¹³⁴ An "approved helmet" is one that meets or exceeds the minimum standards for bicycle safety helmets established by the American National Standards Institute/the Snell Memorial Foundation prior to March 1999 or by the Consumer Product Safety Commission after March 1999. §32:199(A)(1)(a) and (b).

LOUISIANA

However, comparative negligence laws do apply.
§32:199(D).

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

A person <12 years old is prohibited from riding (1) in the open bed of a truck with a gross weight of ≤6,000 lbs. (commonly referred to as a pickup truck) or (2) in a utility trailer. §32:284(C)

Sanctions for a Violation:

Misdemeanor. First offense-an imprisonment term of not more than **30 days** and/or a fine of not more than **\$175**. Subsequent offense-an imprisonment term of not more than **90 days** and/or a fine of not more than **\$500**. §§14:7, 32:57(A) and Code of Crim. Proc. Arts. 933 and 934.

Exemptions:

This prohibition does not apply (1) if the pickup truck is traveling ≤15 mph and is participating in an authorized parade, or (2) in emergency situations if the child is accompanied within the truck bed by an adult.
§32:284(C)

JURISDICTION:
General Reference:

MASSACHUSETTS
Massachusetts General Laws Annotated

Required Use of Safety Belts:¹³⁵

Requirements:

No person shall operate or ride in a private passenger motor vehicle, vanpool vehicle or truck weighing <18,000 lbs. unless he/she is secured in a safety belt.¹³⁶ Ch. 90, §13A Note: For children >5 but ≤12 years old, see Required Use of Child Restraint Systems below.

Secondary Enforcement. A law enforcement officer can only enforce this provision when a vehicle operator has been stopped for a violation of other provisions of law. Ch. 90, §13A

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Motor Vehicle Infraction: A fine of **\$25**.¹³⁷ Ch. 90, §13A and Ch. 90C, §1 Note: A violation of this requirement shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums. Ch. 90, §13A

Effect on Civil Liability:

There are no statutory provisions.¹³⁸

¹³⁵**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons riding in motor vehicles manufactured before July 1, 1966; (2) to any person who is physically unable to use a safety belt; (3) to rural carriers of the U.S. Postal Service while performing official duties; and (4) to anyone involved in the operation of taxis, liveries, tractors, trucks with a gross weight ≥18,000 lbs., (5) buses; and (6) passengers of authorized emergency vehicles. Ch. 90, §13A

¹³⁶No person shall transport more than 14 school pupils in a motor vehicle unless all of the vehicle's occupants are secured in safety belts. Ch. 90, §7D. In addition, under separate provisions, a person operating a school bus is required to wear a safety belt while transporting children school pupils. Ch. 90, §7B(8). A violation of these requirements is a Civil Motor Vehicle Infraction for which the following sanctions may be imposed: For a first offense, a fine of not more than **\$35**; for a second offense (within 12 months), a fine of not less than **\$35** nor more than **\$75**; and, for a subsequent offense (within 12 months), a fine of not less than **\$75** nor more than **\$150**. Ch.90, §20 and Ch. 90C, §1

¹³⁷Vehicle operators and passengers ≥16 years old in violation of this requirement are subject to a fine of **\$25**. However, if the offender is a passenger ≥12 but <16 years old, the vehicle operator is subject to an additional fine of **\$25** for each such passenger who was not wearing a safety belt. Ch. 90, §13A

¹³⁸The State Supreme Court has not addressed the issues of whether the nonuse of a safety belt either (1) can be used to mitigate damages or (2) can be considered as contributory negligence. The court refused to consider such issues in one case because no evidence was presented to show that safety belt nonuse was causally related to plaintiff's injuries. *Shahzade v. C.J. Mabardy, Inc.*, 586 N.E.2d 3 (Mass. 1992)

Required Use of Child Safety Restraint Systems:¹³⁹

Requirements:	<p>I. No child <5 years old <u>and</u> weighing ≤40 lbs. shall ride in a motor vehicle unless the child is fastened in a child passenger restraint. Ch. 90, §7AA</p> <p>II. No child ≥5 but <12 years old shall ride in a motor vehicle unless the child is wearing a safety belt. Ch. 90, §7AA</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	Civil Motor Vehicle Infraction: The vehicle operator is subject to a fine of not more than \$25 . This sanction does not apply to an operator of a taxicab that is not equipped with a child passenger restraint device. Ch. 90, §7AA and Ch. 90C, §1. Note: A violation of these requirements is not considered a moving violation for the purpose of determining surcharges on motor vehicle premiums. Ch. 90, §7AA
Effect on Civil Liability:	A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. Ch. 90, §7AA

Required Use of Motorcycle Protective Headgear:¹⁴⁰

Requirements:	Every person operating or riding on a motorcycle or riding in a motorcycle sidecar shall wear State-approved protective headgear. Ch. 90, §7
Sanctions for Failure to Use:	Civil Motor Vehicle Infraction: <u>First offense</u> -a fine of not more than \$35 ; <u>second offense</u> (within 12 months)-a fine of not less than \$35 nor more than \$75 . <u>Subsequent offense</u> (within 12 months)-a fine of not less than \$75 nor more than \$150 . Ch. 90, §20 and Ch. 90C, §1

¹³⁹**Exemptions.** This requirement does not apply in the following circumstances: (1) To a child who is riding in a school bus; (2) to a child who is riding in a motor vehicle made before July 1, 1966, that is not equipped with safety belts; and (3) to a child who for physical reason cannot use a child passenger restraint system. Ch. 90, §7AA

¹⁴⁰**Motorized Bicycles.** A person who is either operating or riding on a motorized bicycle must wear appropriate protective headgear. A person who is convicted of violating this requirement is subject to the following sanctions: For a first offense, a fine of not less than **\$25**; for a second offense, a fine of not less than **\$25** nor more than **\$50**, and for a subsequent offense a fine of not less than **\$50** nor more than **\$100**. Ch. 90, §1B

Required Use of Motorcycle Eye Protection Device:

Requirements:	If a motorcycle is not equipped with a windshield or screen, the operator of such vehicle shall wear eyeglasses, goggles, or a protective face shield. Ch. 90, §7
Sanctions for Failure to Use:	Civil Motor Vehicle Infraction: <u>First offense</u> -a fine of not more than \$35 ; <u>second offense</u> (within 12 months)-a fine of not less than \$35 nor more than \$75 . <u>Subsequent offense</u> (within 12 months)-a fine of not less than \$75 nor more than \$150 . Ch.90, §20 and Ch. 90C, §1

Required Use of Bicycle Protective Headgear:

Requirements:	When operating or riding a bicycle, a person ≤12 years old shall wear a nationally approved helmet. ¹⁴¹ This requirement does not apply if the person is in an enclosed trailer or other device that holds the person in place. Ch. 85, §11B
Sanctions for Failure to Use:	Civil Disposition: A fine of not more than \$20 . ¹⁴² Ch. 40, §21, cl. 16B and Ch. 85, §11C

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	

Prohibition Against Riding in Unsecured Portion of Vehicle:¹⁴³

Requirements:	No person shall operate a pickup truck for a distance of >5 miles <u>and</u> >5 mph with persons <12 years old in the body of such truck. Ch. 90, §13
Sanctions for a Violation:	Civil Motor Vehicle Infraction: <u>First offense</u> -a fine of not more than \$35 ; <u>second offense</u> (within 12 months)-a fine of not less than \$35 nor more than \$75 . <u>Subsequent offense</u> (within 12 months)-a fine of not less than \$75 nor more than \$150 . Ch. 90, §20 and Ch. 90C, §1
Exemptions:	This requirement does not apply (1) to pickup trucks used in an official parade, (2) where such truck as affixed to it a legal "Owner Repair" or "Farm" license or (3) to a pickup truck engaged in farming activities. Ch. 90, §13

¹⁴¹A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. Ch. 85, §11B

¹⁴²A bicycle may be impounded for not more than 15 days. Ch. 85, §11B

¹⁴³In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

MARYLAND

Annotated Code of Maryland. Most references are to the Transportation Article (Tran.)

Required Use of Safety Belts:¹⁴⁴

Requirements:

I. A person may not operate a motor vehicle¹⁴⁵ unless he/she and any passenger <16 years old are secured in safety belts (or child safety seat). Tran. §22-412.3(b)
II. Persons ≥16 years old may not be passengers in an "outboard front seat" of a motor vehicle unless they are restrained in seat belts. An "outboard front seat" means a front-seat position that is adjacent to a door of a motor vehicle. Tran. §22-412.3(a)(3) and (c)

Provisional Licenses. Drivers ≤18 years old must have a restriction placed on their driving privileges that prohibits them from operating motor vehicles unless they and all of their passengers are secured in safety belts. The medical exemptions provided for in Footnote No. 1 apply. Tran. §16-113(d-1). A person who violates a restriction on his/her license commits a misdemeanor and is subject to a fine of not more than \$500. Tran. §§27-101(b) and 27-102.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of not more than **\$25** (including court costs). Tran. §§27-101(a) and 27-106(b). Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. Tran. §22-412.3(g)

Effect on Civil Liability:

The failure to use a safety belt may not be considered (1) as evidence of negligence, (2) as evidence of contributory, (3) to limit liability of a party or insurer or (4) to diminish recovery for damages arising out of the ownership,

¹⁴⁴**Exemptions.** The seat requirement does not apply in the following circumstances: (1) To persons who cannot use a seat belt for physical or medical reasons; and (2) to U.S. Postal Service carriers or contractors while delivering mail to local box routes. Tran. §22-412.3(d), (e) and (f)

¹⁴⁵The term "motor vehicle" means either a Class A (passenger) vehicle, a Class E (truck) vehicle, Class F (tractor) vehicle, Class M (multipurpose) vehicle or Class P (passenger bus) which are required to be equipped with seat belts under Federal law. However, the term does not include a Class L (historic) vehicle. Tran. §22-412.3(a)(2) Note: Persons (operators or passengers), who are riding in (or on) the following motor vehicles, are exempt from using a seat belt by reason of the fact that such vehicles are excluded from the list of classifications of motor vehicles covered by the seat belt use law (Tran. §22-412.3(a)(2)): Class B vehicles (for hire vehicles, e.g., taxicabs, except vehicles operated on regular schedules between fixed termini); Class C vehicles (ambulances, mortician flower coach/service wagons, funeral limousine/coach); Class D vehicles (motorcycles); Class G vehicles (trailers or semi-trailers); Class H vehicles (school buses/vehicles); Class J vehicles (vanpool vehicles); Class K vehicles (farm vehicles operated only on a farm or within 10 miles of a farm); Class L vehicles (historic vehicles, i.e., vehicles that are ≥20 years old); Class N vehicles ("street rod" vehicles, e.g. vehicles that are ≥25 years old and that have been modified from the manufactures' original design); and, Class Q vehicles (limousines). Tran. §§11-165 and 13-912 et seq.

Effect on Civil Liability:
(Continued)

maintenance or operation of a motorcycle. Tran. -§22412.3(h)(1). However, such evidence is admissible where the damages alleged are related to a defect in the design or manufacture of the safety belt. Tran. §22-412.3(h)(2) and (h)(3).

Required Use of Child Safety Restraint Systems¹⁴⁶:

Requirements:

I. A person transporting a child <4 years old (<6 yrs after 9/30/2003) (regardless of the child's weight) or ≤40 lbs. (regardless of the child's age) in a motor vehicle¹⁴⁷ shall secure such child in a child safety seat. Tran. §22-412.2(d)(1) and (2). A person transporting a child weighing >40 lbs. and <16 years old in a motor vehicle shall secure such child in a child safety seat (or a safety belt). Tran. §22-412.2(e)(1) and (2)
Note: A child safety seat or safety belt may not be used to restrain, seat or position more than one individual at a time. Tran. §22-412.2(g)

Provisional Licenses. Drivers <18 years old must have a restriction placed on the their driving privileges that prohibits them from operating a motor vehicle unless they comply with the requirements of the child safety restraint law. The medical exemptions of that law apply. Tran. §16-113(d-1). A person who violates a restriction commits a misdemeanor and is subject to a fine of not more than \$500. Tran. §27-101(b) and 27-102.

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: A fine of **\$25**. Tran. §§22-412.2(l)(1) and 27-101(a) Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. Tran. §22-412.2(j)

Effect on Civil Liability:¹⁴⁸

A violation of this requirement is not contributory negligence and may not be admitted as evidence in the trial of any civil action. Tran. §22-412.2(i)

¹⁴⁶**Exemptions.** The requirements to use either a child safety seat or seat belt do not apply in the following circumstances: (1) To children whose weight, physical unfitness, or medical condition prevent the practical use of this device; and (2) to children where the number of children riding in the vehicle exceeds the number of available seat belts in the vehicle. Tran. §22-412.2(f) and (h)

¹⁴⁷The term "motor vehicle" means either a Class A (passenger) vehicle, Class E (truck) vehicle with a capacity ≤3/4 ton and a gross vehicle weight ≤7,000 lbs., or a Class M (multipurpose) vehicle. Tran. §22-412.2(c)

¹⁴⁸A person or the sponsoring organization is not civilly liable for an act or omission occurring during the inspection, installation, or adjustment of a child safety seat, including giving any advice regarding any such installation or adjustment, if (1) the person acts in good faith and within the scope of his/her training, (2) the person does not commit gross negligence or wanton misconduct, (3) there is no charge or fee for such service, and (4) the service is not provided in conjunction with a sale of a child restraint system. The person must be a certified child passenger safety technician via the National Highway Traffic Safety Administration (NHTSA), the American Automobile Association (AAA), or other entity designated by NHTSA. Courts and Judicial Proceedings §5-640.

Required Use of Motorcycle Protective Headgear:

Requirements:	Persons shall not operate or ride on a motorcycle unless they are wearing State-approved protective headgear. ¹⁴⁹ Tran. §21-1306(b) Note: This requirement does not apply to persons riding in an enclosed cab. Tran. §21-1306(a)
Sanctions for Failure to Use:	Misdemeanor: A fine of not more than \$500 . Tran. §27-101(a) and (b) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:	A person shall not operate or ride on a motorcycle unless he/she is wearing State-approved eye-protection device or using a windscreen. Tran. §21-1306(c). Note: This requirement does not apply to persons riding in an enclosed cab. Tran. §21-1306(a)
Sanctions for Failure to Use:	Misdemeanor: A fine of not more than \$500 . Tran. §27-101(a) and (b) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:¹⁵⁰

Requirements:	A person <16 years old may not ride or be a passenger on a bicycle on a highway unless he/she wears a nationally approved helmet. ¹⁵¹ Tran. §21-1207.1(a)(ii) and (c)
Sanctions for Failure to Use:	A person violating this requirement is issued a warning that informs them of the requirements and provides educational materials about bicycle helmet use. Tran. §21-1207.1(d)

¹⁴⁹The failure to use protective headgear may not be considered (1) as evidence of negligence, (2) as evidence of contributory, (3) to limit liability of a party or insurer, or (4) to diminish recovery for damages arising out of the ownership, maintenance, or operation of a motorcycle. Tran. §21-1306(e)(1) However, such evidence is admissible where the damages alleged are related to a defect in the design or manufacture of the headgear. Tran. §22-412.3(h)(2) and (h)(3).

¹⁵⁰A person <16 years old may not ride a scooter or in-line skates on a highway, bicycle way, sidewalk or other property open to the public for pedestrian or vehicular traffic unless he/she is wearing a helmet that as a minimum satisfies the “protective headgear” standards established for use in bicycling or in-line skating by the American National Standards Institute, the Snell Memorial Foundation, or the American Society of Testing and Measurements. The only sanction for a violation of this requirement is the issuance of a warning with educational materials concerning helmet usage. Tran. §21-1207.2

¹⁵¹This requirement does not apply (1) to passengers riding in commercial bicycle rickshaws or (2) to persons riding bicycles on certain segments of the boardwalk in Ocean City, Maryland. Tran. §21-1207.1(a)(2) and (b)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. A person may not operate a Class E vehicle¹⁵² while a passenger <16 years old is riding in the unenclosed bed of the vehicle. Tran. §21-1121(c)
 II. A person may not occupy the cargo area of (1) a truck, (2) a truck/trailer or (3) a truck tractor/semi-trailer or trailer combination where any of these vehicles has a gross vehicle weight of ≥10,001 lbs. and is being operated on a highway. Tran. §21-1107(a) and (b)

Sanctions for a Violation: Misdemeanor: A fine of not more than **\$500**. Tran. §27-101(a) and (b) Note: The law does not appear to assign points for a violation of these requirements.

Exemptions: I. The prohibition in I does not apply if (1) the vehicle is traveling ≤25 mph, (2) an employee is being transported to a work site or (2) an individual is engaged in farming operations. Tran. §21-1121(b)(1) Note: These exemptions do not eliminate the requirements to use child safety seat or safety belts. Tran. §21-1121(a) and (b)
 II. The prohibition in II does not apply to (1) a person delegated to care for livestock, (2) a vehicle controlled or operated by a farmer where such vehicle (a) is being used to transport agricultural products, farm machinery or farm supplies to or from a farm, (b) is not used in operations of a common or contract motor carrier and (c) is used within 150 miles of the farm; (3) a vehicle owned or operated by the U.S. Department of Defense and operated either (a) by active-duty personnel or (b) by reserve or National Guard personnel while on either active duty or on part-time training; or, (4) a vehicle traveling at a speed ≤25 mph. Tran. §21-1107(c)

¹⁵²A Class E vehicle is a truck with a capacity of three-quarters of a ton or less and a gross vehicle weight of ≤7,000 lbs. Tran. §§13-917 and 21-1121(a)

JURISDICTION:
General Reference:

MAINE
Maine Revised Statutes Annotated (MRSA)

Required Use of Safety Belts:¹⁵³

Requirements:

I. A vehicle¹⁵⁴ operator shall secure the person in safety belt. Title 29-A MRSA §2081(3-A)
II. Vehicle² passengers ≥18 years old are responsible for securing themselves in a safety belt. Title 29-A MRSA §2081(3-A)
Important. See Required Use of Child Safety Restraint Systems below.
Secondary Enforcement. A law enforcement officer can only enforce a violation of Title 29-A MRSA §2081(3-A) after a vehicle operator has been detained for another violation of the law. Title 29-A MRSA §2081(4)(E)
III. **School Bus.** “The operator and passengers in a school bus equipped with safety seat belts shall wear those belts when the vehicle is in motion.” Title 29-A MRSA §2304(4)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Infraction:¹⁵⁵ For violation of either I or II above, a fine of not less than **\$25** (mandatory) nor more than **\$50**. For a violation of III above, a fine of not less than **\$25** nor more than **\$500**. Title 29-A MRSA §§103(3), 104 and 2081(4)(D) Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

The nonuse of a safety belt by either the vehicle operator or a passenger is not admissible in evidence in a civil or criminal trial, except in a trial for a violation of this requirement. Title 29-A MRSA §2081(5)

Required Use of Child Safety Restraint Systems:

Requirements:

I. A vehicle operator, when transporting a child <40 lbs,

¹⁵³**Exemptions.** I. These requirements do not apply under the following circumstances: (1) To passengers >1 year old if the number of passengers exceeds the number of available safety belts in the vehicle (**Important.** This exemption **does not** apply if the vehicle operator is <21 years old.); and (2) to drivers (regardless of age) or passengers (≥19 years old) who for medical conditions cannot use a safety belt. Title 29-A MRSA §2081(4)(A) and (A-1) II. In addition, rural mail carriers of the U.S. Postal Service are not required to use safety belts when performing official duties. And taxicab operators are not responsible for insuring that fee-paying passengers wear safety belts. Title 29-A MRSA §2081(6)(A) and (B)

¹⁵⁴The requirement to use either a safety belt or child safety seat only applies to persons occupying vehicles that are required to be equipped with safety belts under Federal law. Title 29-A MRSA §2081(2), (3) and (3-A)

¹⁵⁵I. Within the statutory fine limits, the Chief Judge of the District Court establishes a fine schedule for traffic infractions. Title 4 MRSA §164(12)(B) II. **Surcharges.** Twelve percent (12 percent) and 2 percent surcharges must be imposed on any fine for the respective purposes of funding jail/criminal operations and the Community Policing Institute. 4 MRSA §§1057 and 1057-A (Repealed effective September 30, 2003.)

Required Use of Child Safety Restraint Systems
(continued)

must secure such child in a Federally approved child safety seat. Title 29-A MRSA §2081(1) and (2)
II. A vehicle operator must have a child ≥ 40 lbs but < 80 lbs and < 8 years in a child restraint system. Title 29-A MRSA §2081(3)(A)
III. A vehicle operator must have children < 12 years and < 100 lbs. secured in the back seat, if possible. Title 29-A MRSA §2081(3)(C)
IV. A vehicle operator must have persons ≥ 4 but < 18 years old secured in a safety belt. Title 29-A MRSA §2081(3)(B)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

I. A violation of I is a Traffic Infraction: A fine of not less than **\$25** (mandatory) nor more than **\$500**. Title 29-A MRSA §§103(3), 104, 2081(4)(C) and 2604
II. A violation of II is a Traffic Infraction: A fine of not less than **\$25** (mandatory) nor more than **\$50**. Title 29-A MRSA §§104 and 2081(4)(D)
Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

The failure to secure a child in a child safety seat is not admissible in evidence in a civil or criminal trial, except in a trial for a violation of this requirement. Title 29-A MRSA §2081(5)

Required Use of Motorcycle Protective Headgear:¹⁵⁶

Requirements:

I. A person operating a motorcycle, motor-driven cycle on a learner's permit or within 1 year of successfully completing a driving test must wear appropriate protective headgear. Title 29-A MRSA §2083(1)(C)
II. A person < 15 years old must wear appropriate protective headgear when riding as a passenger on a motorcycle, motor-driven cycle or an attached side car. Title 29-A MRSA §2083(1)(A)
III. A person < 15 years old, who is operating an off-road motorcycle or motor-driven cycle, must wear appropriate protective headgear. Title 29-A MRSA §2083(1)(B)
IV. A passenger of an operator who is required to wear a protective headgear must also wear such protection. Title 29-A MRSA §2083(1)(D)

Sanctions for Failure to Use:

Traffic Infraction: A fine of not less than **\$25** (mandatory) nor more than **\$500**.¹⁵⁷ Title 29-A MRSA §§103(3), 104,

¹⁵⁶In a case involving an all-terrain vehicle, a Federal appellate court has held that, under Maine law, failure to wear a helmet can be a bar to the recovery of damages if it can be shown that such a failure was responsible for the injuries. *Rodgers v. American Honda Motor Co.*, 46 F.3d 1 (1st Cir. 1995)

¹⁵⁷This sanction applies to any operator, parent, or guardian who allows a passenger < 15 years old to ride a vehicle in violation of these requirements. Title 29-A MRSA §2083(2)

Sanctions for Failure to Use:	2083(5) and 2604 Note: The law does not appear to assign
(continued)	points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:	None
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Sanctions for Failure to Use:	N/A
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Required Use of Bicycle Protective Headgear:

Requirements:	A person <16 years old who is operating a bicycle must wear a helmet (protective headgear) which meets or exceeds the U.S. Consumer Protect Safety Commission's standards. Title 29-A MRSA §§2322(2) and 2323(1)
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Note: Passengers riding on a bicycle taxi, a bicycle designed to carry passengers, are exempt from this requirement. Title 29-A MRSA §§2322(5) and 2327

Sanctions for Failure to Use:	A law enforcement officer may provide bicycle safety information to a person who is in violation of this requirement. In addition, the offender's parents may be informed of this requirement and where to obtain an appropriate helmet. ¹⁵⁸ Title 29-A MRSA §2326
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Admissibility of Evidence: In an accident involving a bicycle, the nonuse of a helmet by the operator or passenger is not admissible as evidence in a civil or criminal trial. Title 29-A MRSA §2328

Required Use of Bicycle Eye Protection Device:

Requirements:	None
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Prohibition Against Riding in Unsecured Portion of Vehicle:¹⁵⁹

Requirements:	When riding in a pickup truck, a passenger <19 years old must ride in the passenger compartment. ¹⁶⁰ Title 29-A MRSA §2088(1)
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¹⁵⁸The law is not specific as to whether this is the only sanction that can be imposed for a violation of this requirement. Normally, a violation of a provision of Title 29-A is a traffic infraction. The sanction for such a traffic infraction violation is a fine of between \$25 and \$500 and is determined via a fine schedule established by the District Court. Title 29-A MRSA §§103, 104 and 2604 and Title 4 MRSA §164(12)(B)

¹⁵⁹Under Title 29-A MRSA §2086, "[a] person may not ride or occupy the trunk of a vehicle while the vehicle is in motion on a public way." A person, who violates this requirement commits a Traffic Infraction and is subject to a fine of **\$25 to \$500**. Title 29-A MRSA §§103, 104 and 2604

¹⁶⁰Note: The safety belt use law, because it covers all vehicle passengers (regardless of age), may indirectly establish such a prohibition as well.

Sanctions for a Violation:

Traffic Infraction: A fine of **\$25 to \$500**. Title 29-A
MRSA §§103, 104 and 2604

Exemptions: This requirement does not apply in the
following situations.

I. Persons, including agricultural workers and trainees,
who are either engaged in the necessary discharge of their
duties or are being transported between work or training
locations.

II. Licensed hunters being transported to or from hunting
locations.

III. Persons who are participating in parades.

IV. A passenger who is secured by a safety belt in a
manufacturer-installed seat, located outside of the
passenger compartment.

Title 29-A MRSA §2088(2)

JURISDICTION:
General Reference:

MICHIGAN
Michigan Compiled Laws Annotated

Required Use of Safety Belts:¹⁶¹

Requirements:

I. When a motor vehicle is in operation, each driver and front-seat passenger shall wear a safety belt. However, a passenger does not have to comply with this requirement, if all of the available safety belts are in use. §257.710e(3) See Child Safety Restraint Systems below.

II. When operating a motor vehicle, a driver shall secure each child ≥4 but <16 years in a safety belt.¹⁶²

§257.710e(4)

Enforcement. If after December 31, 2005, there has been less than 80 percent compliance with the above two requirements within the preceding year, a law enforcement officer can only enforce these requirements as a secondary action after a driver has been detained for another violation of the vehicle code.

§257.710e(5)

III. A person operating an auto-cycle on a highway shall wear a safety belt. §257.658(5)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Infraction:¹⁶³ A fine (including court costs) of **\$25**. §§257.6a, 257.710e(7) and 257.907(2) Note: Points shall not be assessed against an offender's driver record for a violation of either I or II above.

§257.710e(13)

Effect on Civil Liability:

Failure to wear a safety belt in violation of the requirements in I or II above may be considered evidence of negligence and may reduce the recovery for damages by not more than 5 percent.¹⁶⁴ §257.710e(6).

¹⁶¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons riding (a) in vehicles manufactured before January 1, 1965, (b) a bus, (c) a motorcycle, or (d) a moped; (2) to persons who for physical or medical reason cannot use a safety belt; (3) to persons riding in motor vehicles that are not required to have safety belts; (4) to persons riding in commercial or U.S. Postal Service vehicles that make frequent stops to pick up or deliver goods or services; (5) to rural carriers of the U.S. Postal Service while performing official duties; and (6) to passengers on a school bus. §257.710e(1) Note: The exemption provided for U.S. Postal Service vehicles also includes vehicles owned and used by Postal Service employees while on official business. 1985-1986 Op. Atty. Gen. Mich. 287

¹⁶²A driver does not have to comply with this requirement if the number of children to be secured exceeds the number of safety belts available. Unsecured children have to be seated in other than the front seat and all front-seat passengers must be secured. In the case of pickup trucks where all safety belts are being used and where such vehicles do not have an extended cab or jump seats, unsecured children may be transported in the front seat without a safety belt. §257.710e(4)

¹⁶³A violation of the requirement to wear a safety belt when operating an autocycle on a highway appears to be a misdemeanor. Sanctions for this misdemeanor are an imprisonment term of not more than **90 days** and/or a fine of not more than **\$100**. §§257.658(5) and 257.901.

¹⁶⁴In situations where an "unbelted" rear-seat passenger is injured, evidence of safety belt nonuse may be admitted as evidence "to support an affirmative defense" of comparative negligence. (410 N.W.2d at 721). *Lowe v. Estate Motors Ltd*, 410 N.W.2d 706 (Mich. 1987) (rehearing denied 429 Mich. 1207 (1987)). Note: The court

This statute is not applicable in a products liability action regarding defects in safety belt design and manufacture. *Klinke v. Mitsubishi Motors Corp.*, 581 N.W.2d 272 (Mich. 1998).

Required Use of Child Safety Restraint Systems:¹⁶⁵

Requirements:	When transporting a child <4 years old in a motor vehicle, a driver shall secure such child in a Federally approved child restraint system. §257.710d(1)
Sanctions for Failure to Require the Use of Child Restraint Systems:	Civil Infraction: A fine of not more than \$10 . §§257.6a, 257.710d(4) and 257.907(2) However, an offender is also liable for \$5 in court costs. §257.710d(13) Note: Points shall not be assessed against an offender's driver record. §257.710d(5)
Effect on Civil Liability:	

Required Use of Motorcycle Protective Headgear:¹⁶⁶

Requirements:	I. A person operating or riding on a motorcycle shall wear a State-approved crash helmet. §257.658(4) II. A person <19 years operating a moped on a public highway shall wear a State-approved crash helmet. §257.658(4)
Sanctions for Failure to Use:	Misdemeanor: A violation of the requirement to wear a crash helmet appears to be a misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than 90 days and/or a fine of not more than \$100 . §§257.658(4) and 257.901. Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:	A person, who is operating a motorcycle without a windshield and is traveling >35 mph, must wear either goggles, a transparent face shield or eyeglasses. §257.708a
Sanctions for Failure to Use:	Misdemeanor: A violation of the requirement to use an eye protection device appears to be a misdemeanor. The sanctions for this misdemeanor are an

explicitly expressed no opinion on the “applicability” of §257.710e with regard to mandatory safety usage for front-seat passengers.

¹⁶⁵**Exemptions.** These requirements do not apply in the following circumstances: (1) To children being nursed; (2) to children being transported in a bus, school bus, taxicab, moped, motorcycle or a motor vehicle that is not required to be equipped with safety belts; and (3) to the “class” of children who are exempt by the State Secretary of State because of either physical or medical reasons. §257.710d(2), (3) and (6)

¹⁶⁶Persons either operating or riding in “low-speed vehicles” must wear an approved crash helmet. Generally, a “low-speed vehicle” is an electrically powered motor vehicle that (1) is designed to operate a speed ≤35 mph, (2) has capacity of ≤4 persons including the driver and (3) weighs ≤2,000 lbs. §257.25b and 257.658b

MICHIGAN

imprisonment term of not more than **90 days** and/or a fine of not more than **\$100**. §§257.708a and 257.901.
Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	N/A

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	A motor vehicle operator shall not allow a person <18 years old to ride in the open bed of a pickup truck on any highway, road or street in a city, village or township at a speed >15 mph. §257.682b(1)
Sanctions for a Violation:	Civil Infraction-Only a fine is imposed for a Civil Infraction. The actual fine that is to be imposed on an offender is determined by a fine schedule that is established by each district or municipal court. §§257.682b(3), 257.907(7) and 600.8827(5)
Exemptions:	This requirement does not apply to: (1) Motor vehicles operated as part of a an authorized parade; (2) military vehicles; (3) authorized emergency vehicles; (4) motor vehicles controlled or operated by an employer or an employee of a farm operation, construction business or similar enterprise during the course of employment; and, (5) motor vehicles used to transport search and rescue teams to and from an emergency site. §257.682b(2)

JURISDICTION:
General Reference:

MINNESOTA
Minnesota Statutes Annotated

Required Use of Safety Belts:¹⁶⁷

Requirements:

I. The driver of a passenger or commercial motor vehicle¹⁶⁸ shall wear a safety belt.¹⁶⁹ §169.686, subd. 1(1)
 II. A passenger riding the front seat of a passenger or commercial motor vehicle shall wear a safety belt. §169.686, subd. 1(2)
 III. A passenger who is >3 but <11 years old shall be secured in a safety belt while riding in any seating position. §169.686, subd. 1(3)
Secondary Enforcement. A law enforcement officer may not issue a citation for a violation of these requirements unless they have lawfully stopped or detained the vehicle operator for a moving violation except for a equipment violation. §169.686, subd. 1
 Note: Not reported are certain required uses of safety belts that are needed to secure wheelchairs being transported on public transportation vehicles. §299A.13

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Misdemeanor: A fine of **\$25**.¹⁷⁰ §§169.89, subd. 2 and 169.686, subd. 1. A person may also be required to attend a driver improvement clinic. §169.89, subd. 5
 Note: A violation of this requirement shall not be recorded on an offender's driver record. §169.686, subd. 1.

Effect on Civil Liability:

Evidence of either the use or the failure to use a safety belt shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle. §169.685, subd. 4(a). This provision was held constitutional on both

¹⁶⁷**Exemptions.** The requirement to use a seat belt does not apply in the following circumstances: (1) To drivers who are operating a passenger vehicle in reverse; (2) to persons who are riding in a vehicle where all of the available safety belt positions have been occupied; (3) to persons who for physical or medical reasons cannot use a seat belt; (4) to persons who are engaged in work that requires them to alight from and reenter a passenger vehicle at frequent intervals and where the vehicle is does not exceed 25 mph; (5) to rural mail carriers of the U.S. Postal Service while performing official duties; (6) to persons driving or riding in a passenger motor vehicle manufactured before January 1, 1965; and (6) to persons riding in pickup trucks while engaged in normal farming work or activity. §169.686, subd. 2.

¹⁶⁸Under State law, the following types of motor vehicles do not have to be equipped with safety belts: (1) Bus, (2) school bus, (3) motorcycle, (4) motorized bicycle, (5) farm tractor, (6) road tractor and (7) truck. §169.685, subd. 1.

¹⁶⁹Under separate provisions of law, school bus and Head Start bus operators must use a safety belt. §169.447, subd. 2. Persons violating this requirement commit a petty misdemeanor and are subject to a fine sanction of not more than \$200. However, if they commit a third offense within 12 months, they commit a misdemeanor and are subject to an incarceration term of not more than 90 days and/or a fine of not more than \$700. §§169.89, subsd. 1 and 2 and 609.03(3). (The general penalty provisions of Chapter 169.)

¹⁷⁰Individuals ≥15 years old who violates I or II are personally responsible for their actions. However, the driver is responsible if the offense was committed either by the driver's child <15 years old or by any child <11 years old. §169.686, subd. 1

Effect on Civil Liability
(continued)

“equal protection” and “due process of law” grounds. *Cressy v. Grassmann*, 536 N.W.2d 39 (Minn. App. 1995) (review denied by the Minn. Sup. Ct., 1995 Minn. LEXIS 850) Note: The law neither prevents a person from bringing a cause of action for damages arising out of a safety belt that was defectively designed, manufactured, or installed nor prohibits the introduction of evidence pertaining to the use of a safety belts in such cases. §169.685, subd. 4(b).

Required Use of Child Safety Restraint Systems:¹⁷¹

Requirements:

A driver when transporting a child <4 years old in a motor vehicle that is equipped with factory-installed safety belts shall secure such child in a Federally approved child passenger restraint system. §169.685, subd. 5(a)and(b)

Enforcement. The State Supreme Court has held that the child safety restraint law, §169.685, is a primary enforcement statute. *State v. Lucas*, 589 N.W.2d 91 (Minn. 1999)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Petty Misdemeanor: A fine of not more than **\$50**. §169.685, subd. 5(b). A person may also be required to attend a driver improvement clinic. §169.89, subd. 5

Effect on Civil Liability:

Evidence of either the use of or the failure to use a child passenger restraint system shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle.

§169.685, subd. 4(a) This prohibition also applies to wrongful death cases. The court interpreted the term “physical injuries” to include death. *Sweldar v. Lahti*, 473 N.W.2d 77 (Minn.App. 1991). This provision was held not to violate a person’s constitutional rights to equal protection and due process of law. *Gressy v. Grassmann*, 536 N.W.2d 39 (Minn. App. 1995). Note: The law neither prevents a person from bringing a cause of action for damages arising out of a child passenger restraint system that was defectively designed, manufactured or installed nor prohibits the introduction of evidence pertaining to the use of a

¹⁷¹**Exemptions.** The requirement to use a child passenger restraint system does not apply in the following circumstances: (1) To children who are being transported for official purposes in an emergency medical vehicle where the use of such a system is unreasonable or unavailable; (2) to children who are being transported in police vehicles when a such a system is not available but such children must be restrained in a safety belt; (3) to children who cannot use such a system for physical or medical reasons; and (4) to children riding in a motor vehicle for hire (e.g., taxi, airport limousine and bus) but this exemption does not apply to rented, leased or borrowed motor vehicles. §169.685, subd. 6

child passenger restraint systems in such cases.
§169.685, subd. 4(b)

Required Use of Motorcycle Protective Headgear¹⁷²:

- | | |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirements: | <p>I. No person <18 years old shall operate or ride on a motorcycle¹⁷³ or motorized bicycle without wearing State-approved protective headgear.¹⁷⁴ §§169.223, subd. 1 and 169.974, subd. 4(a)</p> <p>II. Any person who is operating a motorcycle on a "two-wheeled instruction permit" must wear State-approved protective headgear. §169.974, subd. 2</p> |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Required Use of Motorcycle Eye Protection Device:

- | | |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Requirements: | No person shall operate a motorcycle ¹⁷⁵ or motorized bicycle without wearing an eye-protection device. ¹⁷⁶ §§169.223, subd. 1 and 169.974, subd. 4(a) |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- | | |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sanctions for Failure to Use: | Petty Misdemeanor: A fine of not more than \$200 . §169.89, subds. 1 and 2 A person may also be required to attend a driver improvement clinic. §169.89, subd. 5 |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Required Use of Bicycle Protective Headgear:

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|---------------|-----------------------------------------------------------------------------------------------------------|
| Requirements: | The operator of an electric-assisted bicycle must wear nationally approved headgear. §169.223, subd. 1(5) |
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|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Sanctions for Failure to Use: | Petty Misdemeanor: A fine of not more than \$200 . §169.89, subds. 1 and 2. A person may also be required to attend a driver improvement clinic. §169.89, subd. 5 |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Required Use of Bicycle Eye Protection Device:

- | | |
|---------------|-------------|
| Requirements: | None |
|---------------|-------------|

¹⁷²In an action to recover damages for injuries from a traffic accident, the failure to use protective headgear shall be admissible only with respect to the question of head injuries. Damages for head injuries of any person who was not wearing protective headgear shall be reduced to the extent that those injuries could have been avoided by wearing protective headgear. The admissibility of such evidence applies to operators or passengers regardless of whether they are required by law to wear protective headgear. §169.974, subd. 6 (This provision was held to be constitutional on "equal protection" grounds. *Leonard v. Parrish*, 420 N.W.2d 629 (Minn. App. 1988)) Note: Because of §169.223, subd. 1, such evidence may also be allowed in the case of injured operators or riders of motorized bicycles.

¹⁷³A person <18 years old shall wear protective headgear when operating off-highway motorcycles. §84.793, subd. 2 A person who violates this requirement commits a misdemeanor. §84.796(a) The sanctions for a misdemeanor are an imprisonment term of not more than **90 days** and/or a fine of not more than **\$700**. §609.03(3)

¹⁷⁴This requirement does not apply if the operator or rider is participating in an authorized parade or to persons riding in an enclosed cab. §169.974, subd. 4(b)

¹⁷⁵Any person operating an off-highway motorcycle must wear an eye-protection device. §84.793, subd. 4 A person who violates this requirement commits a misdemeanor. §84.796(a) The sanctions for a misdemeanor are an imprisonment term of not more than **90 days** and/or a fine of not more than **\$700**. §609.03(3)

¹⁷⁶This requirement does not apply to operators of electric-assisted bicycles. §169.223, subd. 1(6)

Prohibition Against Riding in UnsecuredPortion of Vehicle:

Requirements:

None¹⁷⁷

Sanctions for a Violation:

N/A

Exemptions:

N/A

¹⁷⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

MISSOURI
Vernon's Annotated Missouri Statutes

Required Use of Safety Belts:¹⁷⁸

Requirements:

I. When a passenger car¹⁷⁹ is in operation, (1) every driver, (2) front seat passenger, and (3) person <18 years old while operating or riding in a truck¹⁸⁰ shall wear a safety belt. §307.178(2).

Secondary Enforcement. No person shall be stopped, inspected or detained solely to determine compliance with this requirement. §307.178(2)

II. When a passenger car is in operation, every driver shall secure a child ≥4 but <16 years old in a safety belt. §307.178(3)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of not more than **\$10**. No court costs can be imposed and no points can be entered on an offender's driving record. §307.178(5)

Effect on Civil Liability:

Failure to wear a safety belt is not to be considered as evidence of comparative negligence. However, such evidence may be admitted for the purpose of mitigation of damages if the party seeking to introduce such evidence presents expert evidence proving that such a failure contributed to the plaintiff's injuries. If such is proven, damages may be reduced by not more than 1 percent. §307.178(4)

Required Use of Child Safety Restraint Systems:¹⁸¹

Requirements:

Every person, who transports a child <4 years old in a motor vehicle¹⁸² shall secure such child in a child passenger restraint system approved by the State. §210.104(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Infraction: Not more than **\$25** plus court costs. §210.104(2). Note: The law does not appear to assign points for a violation of this requirement.

¹⁷⁸**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons employed by the U.S. Postal Service while on official duties; (2) to persons riding in passenger cars manufactured before January 1, 1968; (3) to persons who for medical reasons cannot use a safety belt; and (4) to persons "while operating or riding a motor vehicle being used in agricultural work-related activities. §307.178.2 In addition, vehicle operators or passengers are not in violation of the safety belt use requirement if they are unable to use safety belts due to the fact that all of the available safety belts are already in use. §307.178(97)

¹⁷⁹A "passenger car" means every motor vehicle designed for carrying ≤10 persons but does not include motorcycles, motorized bicycles, motor tricycles, or trucks with a gross weight of ≥12,000 lbs. §307.178(1)

¹⁸⁰A "truck" is defined as "a motor vehicle designed, used, or maintained for the transportation of property." §301.010(59)

¹⁸¹**Exemptions.** This requirement does not apply to a public carrier for hire. §210.104(3)

¹⁸²Note: The term "motor vehicle" is not defined in Chapter 210 of Title XII.

Required Use of Child Safety Restraint Systems:
(continued)

Effect on Civil Liability:	The failure to comply with this requirement shall not be the basis for a claim of civil liability or negligence or contributory negligence of any person for damages. In addition, such failure shall not be admissible as evidence in the trial of any civil action. §210.106
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Required Use of Motorcycle Protective Headgear:

Requirements:	Every rider or passenger of a motorcycle or motor-tricycle shall wear State-approved protective headgear. §302.020(2)
Sanctions for Failure to Use:	Infraction: A fine of not more than \$25 . No court costs can be imposed and no points can be entered on an offender's driving record. §302.020(3)

Required Use of Motorcycle Eye Protection Device:

Requirements:	Note: This requirement is indirectly covered by the above requirement to use protective headgear.
Sanctions for Failure to Use:	

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	N/A

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	<p>I. No person shall operate a truck³ with a gross weight of <12,000 lbs. when any person <18 year old is riding in the truck's unenclosed bed. §304.665(1)</p> <p>II. No person <18 years old shall ride in the unenclosed bed of a truck³ with a gross weight of <12,000 lbs. when such vehicle is in operation. §304.665(1)</p> <p>These provisions only apply when the truck is operated on a road that is part of the state or Federal highway system or within the corporate limits of any city. §304.665(2)</p>
Sanctions for a Violation:	Class C Misdemeanor: A truck operator, who violates the requirement in I above, is guilty of a Class C

Prohibition Against Riding in Unsecured
Portion of Vehicle: (continued)

Sanctions for a Violation: (continued)

Misdemeanor.¹⁸³ §304.665(1) The sanctions for this misdemeanor are an imprisonment sentence of not more than **15 days** and/or a fine of not more than **\$300**. §§558.011(1)(7) and 560.016(1)(3)

Exemptions:

The above requirements do not apply in the following circumstances: (1) A person must ride in an unenclosed area in order to discharge employment duties; (2) a person must ride in an unenclosed area in order to engaged in agricultural activities; (3) a person is riding in an unenclosed area while participating in a lawfully authorized parade, caravan or exhibition; (4) a person may ride in the unenclosed area provided the vehicle has a device that prevents such passenger from being thrown, falling, or jumping out of the vehicle; (5) a person is riding the unenclosed area as part of a "special event" associated with a social activity of limited duration and there is a lack of available seating in the enclosed area of the vehicle; (6) a person is riding in the unenclosed area for the purpose of providing assistance to or ensuring the safety of other persons that are engaged in a recreational activity; or (7) a person is riding in the unenclosed area of a family-owned truck which is the only vehicle owned by the family and there is insufficient room in the passenger compartment to accommodate all of the passengers. §304.665(2)

¹⁸³Section 304.665 does not provide for a specific sanction for a violation of its provisions by a person <18 years old who is riding in the unenclosed bed of a truck. As a result, the generally penalty provision Chapter 304 may apply. The general penalty provision provides for an imprisonment term of not more than **1 year** and/or a fine of not less than **\$5** but not more than **\$500**. §304.570

JURISDICTION:
General Reference:

MISSISSIPPI
Mississippi Code Annotated

Required Use of Safety Belts:¹⁸⁴

Requirements:

When a passenger motor vehicle¹⁸⁵ is in forward motion, (1) the driver, (2) every front-seat passenger and (3) every child, regardless of seating position, ≥ 4 but < 8 years old shall wear a safety belt. §63-2-1(1) **Secondary Enforcement.** No fine shall be imposed against an operator for a violation of this requirement by themselves or a front seat passenger > 8 years old, unless the driver has been charged with and convicted of some other of violation of the law not related to the mandatory use of safety belts. **Exception:** However, the requirement that another offense be charged does not apply if the safety belt law violation involved a child ≥ 4 but < 8 years old. §63-2-7(1)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of **\$25**. No additional assessments provided for under law shall be imposed against a violator Note: A violation of this requirement is not to be entered on an offender's driving record. §§63-2-3 and 63-2-7(2).

Effect on Civil Liability:

Failure to use a safety belt shall not be considered contributory or comparative negligence, nor shall it create any duty of care between driver and passenger. §63-2-3

Required Use of Child Safety Restraint Systems:

Requirements:

A driver, when transporting a child < 4 years old in a private passenger motor vehicle, shall secure such child in a Federally approved child passenger restraint device or system. §63-7-301(1). For children ≥ 4 but < 8 years old, see Required Use of Safety Belts above.

¹⁸⁴**Exemptions.** The requirement either to wear a safety belt or to use a child passenger restraint device does not apply in the following circumstances: (1) To persons operating farm vehicles, implements of husbandry, or farm tractors; (2) to persons who because of medical reasons cannot use a "seat belt system;" (3) to passenger cars that are operated by either rural letter carriers of the U.S. Postal Service or utility meter readers while on official duty; and (4) buses. §§63-2-1(3) and 63-7-301(2)

¹⁸⁵A "passenger motor vehicle" means a motor vehicle that is designed to carry ≤ 15 or fewer persons including the driver but does not include motorcycles, mopeds, all-terrain vehicles, or trailers. §§63-2-1(2) and 63-7-301(2) The law further provides that the requirements to either wear safety belts or to use child restraint systems only applies to vehicles "manufactured pursuant to Federal Motor Vehicle Safety Standard 208" (49 CFR 571.208) Note: This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

Sanctions for Failure to Require the Use of Child Restraint Systems:	Misdemeanor: A fine of not more than \$25 . §§63-7-309 and 63-9-11(1) In addition, the offender is required to pay a State assessment of \$30 . §99-19-73(1). Offenders may participate in a safety course and thereby cleanse their driving records of this offense. §63-9-11(3).
Effect on Civil Liability:	Failure to comply with this requirement shall not be considered contributory or comparative negligence. §63-7-301(3)
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	No persons shall operate or ride on a motorcycles or motor scooters unless they are wearing crash helmets that have been approved by the American Association of Motor Vehicle Administrators. §63-7-64
Sanctions for Failure to Use:	Misdemeanor: <u>First offense</u> -Imprisonment for not more than 10 days and/or a fine of not more than \$100.1 <u>Second offense</u> (within 1 year)-Imprisonment for not more than 20 days and/or a fine of not more than \$200 . <u>Third and subsequent offense</u> (within 1 year)-Imprisonment for not more than 6 months and/or a fine of not more than \$500 . §§63-7-64 and 63-9-11 All offenders are subject to a State assessment of \$30 . §99-19-73(1). Offenders may also be eligible to participate in a traffic safety violator course and cleanse their records of this offense. §63-9-11(3).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	Note: This requirement is indirectly covered by the requirement to use a crash helmet.
Sanctions for Failure to Use:	
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	None
Sanctions for Failure to Use:	
<u>Required Use of Bicycle Eye Protection Device:</u>	
Requirements:	None
Sanctions for Failure to Use:	

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None**¹⁸⁶

Sanctions for a Violation:

Exemptions:

¹⁸⁶Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for children <8 years old via the provisions of the Safety Belt Use and Child Safety Restraint Systems laws.

JURISDICTION:
General Reference:

MONTANA
Montana Code Annotated

Required Use of Safety Belts:¹⁸⁷

Requirements: A motor vehicle cannot be operated unless the driver and every passenger of a designated seating position is wearing a safety belt,¹⁸⁸ {§61-13-103(1)} or if §61-9-420 applies, is properly restrained in a child safety restraint.

Secondary Enforcement. A driver may not be stopped for a violation of this requirement except upon reasonable cause to believe that such driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law. §61-13-103(4)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A mandatory fine of **\$20**.¹⁸⁹ A violation of this requirement is not considered a moving violation of the purposes of suspending a driver's license. §61-13-104(1) and (2) In addition, no insurance company shall increase a person's premium based on a violation of this requirement. §61-13-104(2). Note: The law provides that this offense is not to be considered a misdemeanor but does not define or classify it as some other offense. §61-13-104(1).

Effect on Civil Liability:

Failure to comply with this requirement shall not be admissible as evidence in any civil action for personal injury or property damage. Furthermore, such failure does not constitute negligence. §61-13-106

¹⁸⁷**Exemptions.** The requirement to use a seat belt does not apply in the following circumstances: (1) To persons who for medical reasons cannot use safety belts; (2) to persons who cannot use safety belts because all of the available safety belts are in use; (3) to operators of motorcycles or motor-driven cycles; (4) to occupants of specially licensed motor vehicles (e.g., road construction equipment, maintenance machinery, ditch-digging apparatus, well-boring apparatus and motor vehicles or trailers designed to apply fertilizer); and (5) to persons who make frequent stops as part of their official job duties and who have obtained an exemption for this purpose by the State. §§61-1-104 and 61-13-103(2)

¹⁸⁸Under the safety belt law, the term "motor vehicle" is defined as a vehicle propelled by its own power and designed primarily to transport persons or property upon the highway (§61-13-102(3)) and the term "seatbelt" means an occupant restraint system that complies with Federal law (§61-13-102(5)). However, under Federal law such a system is only applicable on certain types motor vehicles manufactured after January 1, 1973.

¹⁸⁹Unless special circumstances exist, it is unreasonable, under the State's Constitution to arrest and detain a person for a "non-jailable offense." Mont. Const. Art. II, §§10 and 11 and *State v. Bauer*, 36 P.3d 892 (Mon. 2001). Note: Under the U.S. Constitution, a person may be arrested without a warrant for a fine-only minor criminal offense. *Atwater v. City of Lago Vista*, 532 U.S. 318, 121 S. Ct. 1536, 149 L.Ed.2d 549 (2001).

Required Use of Child Safety Restraint Systems:¹⁹⁰

Requirements: A child < 6 years old and weighing less than 60 pounds, who is a passenger in a motor vehicle,¹⁹¹ must be secured in a Federally approved child restraint system. §61-9-420(1) and (3) The department shall by rule establish standards in compliance with 61-9-419 through 61-9-423 and applicable federal standards for approved types of child safety restraint systems.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor. A fine of not more than **\$100**. §§45-2-101(41), 61-9-423 and 61-9-511(1).
Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

Even though evidence of a failure to comply with this requirement is admissible in any civil action for personal injury or damages, such failure does not alone constitute negligence.
§61-9-422

Required Use of Motorcycle Protective Headgear:

Requirements:

I. A person <18 years old, who operates or rides on a motorcycle or quadricycle,¹⁹² shall wear State-approved protective headgear. §61-9-417(1)
II. A person may not operate a motorcycle unless all passengers <18 years old are wearing protective headgear. §61-9-417(2)

Sanctions for Failure to Use:

A fine of **\$5**. §§45-2-101(41), 61-9-511(91) and 61-9-518(1). Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

N/A

¹⁹⁰**Exemptions.** These requirements do not apply children who for physical or medical reasons cannot use child restraint systems or safety belts. §61-9-420(3)

¹⁹¹The term "motor vehicle" does not include motorbus, school bus, taxicab, moped, quadricycle, motorcycle, any vehicle that does not have to have a safety belt under Federal law, or a vehicle designed for two persons where there are two persons <4 years old in addition to the driver in the vehicle. §61-9-421.

¹⁹²A "quadricycle" is defined as "a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower." §61-1-133

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None**¹⁹³

¹⁹³ Even though there is no statutory prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NORTH CAROLINA
General Statutes of North Carolina

Required Use of Safety Belts:¹⁹⁴

Requirements:

When a passenger motor vehicle¹⁹⁵ is in forward motion, the driver and front-seat passengers ≥16 years old shall wear safety belts. §20-135.2A(a)
Note: §20-135.2A has been held to be constitutional. *State v. Swain*, 374 S.E.2d 173 (N.C. App. 1988). For passengers <16 years old, see Required Use of Child Restraint Systems below.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A “penalty” of **\$25** plus court costs in the sum of \$50. §20-135.2A(e) Note: No drivers’ license points or insurance surcharges shall be assessed as a result of a violation of this requirement. §20-135.2A(f)

Effect on Civil Liability:

Evidence of failure to comply with these requirements shall not be admissible in any criminal or civil trial, action or proceeding except (1) for a violation of such requirement, (2) as a justification for stopping the vehicle or (3) for detaining the vehicle's operator or passengers. §20-135.2A(d) and *Hagwood v. Odom*, 364 S.E.2d 190 (N.C. App. 1988) An appellate court has held that “improper use of a seat belt ... is tantamount to nonuse.” 468 S.E.2d at 839. *Chaney v. Young*, 468 S.E.2d 837 (N.C. App. 1996)

Required Use of Child Safety Restraint Systems:¹⁹⁶

Requirements:

I. A person, who is transporting a person <16 years old, shall properly secure **ALL** such persons in either a Federally approved child passenger restraint system or safety belt. §20-137.1(a)
II. A child <5 years old and weighing <40 lbs. shall be secured in an appropriate child passenger restraint system. In vehicles with front side passenger air bags,

¹⁹⁴**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who for physical or medical reasons cannot appropriately use a safety belt; (2) to rural letter carriers of the U.S. Postal Service while performing official duties; (3) to drivers or passengers who frequently stop and leave a vehicle (e.g., delivering property) and the speed of the vehicle between stops is ≤20 mph; (4) to persons who are operating certain vehicles that are being used for agricultural or commercial purposes; and (5) to persons operating or riding in motor vehicles that are not required by Federal law to have safety belts. §20-135.2A(c)

¹⁹⁵A "passenger motor vehicle" means a motor vehicle with motor power designed for carrying ≤10 passengers but does not include a motorcycle, a motorized pedacycle or a trailer. §20-135.2A(b)

¹⁹⁶**Exemptions.** This requirement does not apply in the following circumstances: (1) To children being transported in ambulances or other emergence vehicles; (2) to children when personal needs are being attended to; (3) to children who cannot be restrained in either a child passenger restraint system or safety belt because all such restraints or safety belt seating positions have been occupied; and (4) to children who are riding in motor vehicles that are not required by Federal law to have safety belts. §20-137.1(b)

Required Use of Child Safety Restraint Systems:
(continued)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

such child shall be properly secured in the **rear seat** unless the child restraint system is designed for use with air bags. §20-137.1(a1)

Infraction: A “penalty” of **\$25** (even when more than one child <16 years old was not properly restrained). The penalty is waived upon proof of acquisition of a child restraint system. §20-137.1(c). In addition, two driver license points shall be assessed for a violation of this requirement. However, no insurance points shall be assessed. §§20-16(c) and 20-137.1(d)(1) and (2)

Effect on Civil Liability:

A violation of this requirement (1) shall not constitute negligence per se or contributory negligence per se and (2) is not evidence of negligence or contributory negligence. §20-137.1(d)(3) and (4)

Required Use of Motorcycle Protective Headgear:¹⁹⁷

Requirements:

No person shall operate or ride on a motorcycle or moped unless he/she is wearing State-approved safety helmets. §20-140.4(a)(2)

Sanctions for Failure to Use:

Infraction: A fine of **\$25**. A person convicted of this offense cannot be assessed court costs. §20-135.2A(e) and 20-140.4(c) Note: No drivers’ license points or insurance surcharges shall be assessed as a result of a violation of these requirements. §§20-135.2A(f) and 20-140.4(c)

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly covered by the above requirement to wear a safety helmet.

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

A parent or legal guardian of a person less than 16 years old cannot knowingly permit such person to operate or ride as a passenger on a bicycle¹⁹⁸ unless he/she is wearing a protective bicycle helmet.¹⁹⁹ §20-171.9(a).

¹⁹⁷ A violation of this requirement shall not be considered negligence per se or contributory negligence per se in any civil action. §20-140.4(b)

¹⁹⁸ The term “bicycle” in addition to meaning the traditional two-wheeled human-powered vehicle, includes a human-powered pedaled vehicle which has more than two wheels. However, this term does not include a “tricycle” which is defined to mean “a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is not more than two feet from the ground.” §20-171.8(1) and (9)

¹⁹⁹ “Protective bicycle helmet” means “a piece of headgear that meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation.” §20-171.8(5).

Required Use of Bicycle Protective Headgear:
(continued)

Sanctions for Failure to Use:	Infraction: A civil fine of up to \$10 (inclusive of all penalty assessments and court costs). §20-171.9(d) The fine for a first violation is waived upon proof of helmet purchase. §20-171.9(e)
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Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	A person shall not transport a child <12 years old in the open bed or cargo area of a vehicle. An open bed or cargo area is a bed or cargo area without permanent overhead restraining construction. §20-135.2B(a)
Sanctions for a Violation:	Infraction: A “penalty” of \$25 . A person is not assessed court costs for a violation of this requirement. §20-135.2B(c). Note: No driver license points or insurance surcharge shall be assessed on account of a violation of this requirement. §20-135.2B(d)
Exemptions:	This requirement does not apply in the following circumstances: (1) A supervising adult is present in the bed or cargo area; (2) the child is secured or restrained in a safety belt; (3) an emergency situation exists; (4) the vehicle is being used in an official parade; (5) the vehicle is operated in an agricultural enterprise; and, (6) the vehicle is being operated in a county with incorporated areas of ≤3,500 population. §20-135.2B(b)

JURISDICTION:
General Reference:

NORTH DAKOTA
North Dakota Century Code Annotated

Required Use of Safety Belts:²⁰⁰

Requirements:

When a motor vehicle²⁰¹ is in operation, front-seat occupants (driver and passengers) shall wear safety belts. §39-21-41.4. See Required Use of Child Safety Restraint Systems below.

Secondary Enforcement. A citation for a violation of this requirement cannot be issued by a law enforcement officer unless the driver has been lawfully stopped or detained for another violation. §39-21-41.5

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Non-Criminal Fee: A fee of not more than **\$20**. §§39-06.1-06(8) and 39-21-46(1) Note: Driver's license points may not be assessed against any person for a violation of this requirement. §39-21-41.5

Effect on Civil Liability:

A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. §39-21-41.4.

Required Use of Child Safety Restraint Systems:²⁰²

Requirements:

I. When a motor vehicle²⁰³ is in motion, a passenger (child) <4 years old must be secured in a Federally approved child restraint system. §39-21-41.2(1)
II. When a motor vehicle is in motion, a passenger (child) ≥4 but ≤17 years old must be secured either (1) in a Federally approved child restraint system or (2) in a safety belt. §39-21-41.2(1)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

No fine or incarceration sanction. However, the law does assign one (1) point for a violation of these requirements. §39-06.1-10(3)(a)(34).

Effect on Civil Liability:

A violation of these requirements is not in itself

²⁰⁰**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To children in a child restraint system; (2) to drivers of implements of husbandry or farm vehicles; (3) to rural mail carriers while on official business; (4) to persons who for physical or medical reasons cannot use a safety belt; and (5) to persons who cannot use a safety belt because all of the available belts are already in use. §39-21-41.4

²⁰¹The term "motor vehicle" applies only to motor vehicles that were (1) designed to carry fewer than 11 persons and (2) originally manufactured with safety belts. §39-21-41.4

²⁰²**Exemptions.** The requirement to use either a child restraint system or a safety belt does not apply either (1) to a child if all of the available safety belts in the vehicle are in use by other family members or (2) to a child being transported in an emergency situation. §39-21-41.2(1)

²⁰³The term "motor vehicle" does not include a motor vehicle that was not equipped with safety belts when it was manufactured. §39-21-41.2(1)

Effect on Civil Liability:
(continued)

evidence of negligence and a violation is not admissible in any proceeding other than one charging such a violation. §39-21-41.2(2)

Required Use of Motorcycle Protective Headgear²⁰⁴:

Requirements:

No person <18 years old may operate or ride on a motorcycle unless he/she wears State-approved protective headgear. §39-10.2-06(1). This requirement does not apply to persons riding within an enclosed cab or on a golf cart. §39-10.2-06(2)

Sanctions for Failure to Use:

Infraction: A fine of not more than **\$500**.²⁰⁵ §§12.1-32-01(7) and 39-07-06 Note: A person violating this requirement is assessed two points against his/her driver's license record.²⁰⁶ §39-06.1-10(3)(a)(28)

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured

Portion of Vehicle:

Requirements:

None²⁰⁷

Sanctions for a Violation:

²⁰⁴In a traffic accident situation, evidence of failure to wear protective headgear may be admitted into evidence to determine if such a failure was a factor in causing injuries to the nonuser. In analyzing this evidence, the court should also consider whether a person would have worn a helmet in order to avoid or to mitigate his/her injuries. *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983)

²⁰⁵A person, who is convicted of any subsequent infraction within 18 months of a previous infraction offense conviction, may be sentenced as if he/she had been convicted of a Class B misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than **30 days** and/or a fine of not more than **\$500**. §12.1-32-01(6) and (7)

²⁰⁶**Persons Under 18 Years Old.** A person under 18 years old who has accumulated >5 points must have his/her driving privileges canceled. Such a person is considered to never to have had a license and, after any period of suspension or revocation, he/she may apply for and be issued an instructional permit. Such individuals must complete certain State required classroom and behind-the-wheel instruction and satisfy all other requirements for licensing prior to being issued a driver's license. §§14-10-01 and 39-06-01.1

²⁰⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NEBRASKA
Revised Statutes of Nebraska

Required Use of Safety Belts:²⁰⁸

Requirements:

Persons shall not operate motor vehicles unless they and each front-seat passenger are wearing an occupant protection system (safety belt).²⁰⁹ §§60-6,265 and 60-6,270(1)

Secondary Enforcement. Enforcement of this requirement by law enforcement officers shall be accomplished only as a secondary action when a driver has been cited or charged with a violation of some other offense. §60-6,271

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Infraction: A fine of **\$25**.²¹⁰ However, no court costs can be assessed and no points can be assessed against a person's driving record. §§60-4,182(13), and 60-6,272 and 60-688

Effect on Civil Liability:

Evidence of a violation of the requirement shall not be admissible in regard to the issue of liability or proximate cause but may be admissible as evidence concerning mitigation of damages. However, such evidence shall not reduce recovery for damages by more than 5 percent. §60-6,273 and *Vredevelde v. Clark*, 504 N.W.2d 292 (Neb. 1993) (decided under §39-6,103.08 which was transferred to §60-6,273)

Required Use of Child Safety Restraint Systems:²¹¹

Requirements:

I. A driver who is transporting a child up to 6 years old in any motor vehicle, must secure such child in a Federally approved child passenger restraint system.²¹² §60-6,267(1)(a)

²⁰⁸**Exemptions.** I. This requirement does not apply to vehicles manufactured before the 1973 model year, farm tractors, implements of husbandry, motorcycles, motor-driven cycles, mopeds, or buses. §60-6,266 and 60-6,270(3) II. This requirement does not apply in the following circumstances: (1) To persons who because of medical reasons cannot wear an occupant protection system; (2) to rural carriers of the U.S. Postal Service while performing official duties; and (3) to members of an ambulance or rescue service unit while involved in patient care. §60-6,270(2)

²⁰⁹Under separate provisions of the law, a school bus operator is required to wear a safety belt if such bus is equipped with seat belts. §79-609(3) Note: This section does not provide a penalty for its violation.

²¹⁰Regardless of the number of violations occurring at one time, a driver can only be cited for one offense. §60-6,272

²¹¹**Exemptions.** I. These requirements do not apply to persons who are operating taxicabs, mopeds, motorcycles, or motor vehicles manufactured as a 1963 or earlier model year. §60-6,267(1). II. These requirements do not apply in the following circumstances: (1) To children who cannot use a child passenger restraint system for physical or medical reasons; and (2) to children who are being transported in emergency vehicles when the vehicle operator is performing official duties. §60-6,267(2) and (3)

²¹²This requirement only applies to motor vehicles that are required to have "occupant protection systems." §60-6,267(1)

Required Use of Child Safety Restraint Systems:
(continued)

	II. A driver who is transporting a child ≥ 6 yrs and < 16 years old in any motor vehicle, must secure such child in an occupant protection system (safety belt). §§60-6,265 and 60-6,267(1)(b) <u>Enforcement</u> of this requirement by law enforcement officers shall be accomplished only as a secondary action when a driver has been cited or charged with a violation of some other offense. §60-6,268(2)
Sanctions for Failure to Require the Use of Child Restraint Systems:	Infraction: <u>First offense</u> -A fine of \$25 . §60-6,268(1) Note: The law is not clear but it is possible that persons could have one point assessed against their driving records. §60-4,182(13)
Effect on Civil Liability:	A violation of this requirement is shall not constitute <i>prima facie</i> evidence of negligence nor shall such compliance constitute a defense to any claim for personal injuries to a child or recovery of medical expenses for injuries. In addition, such a violation shall not constitute a defense for another person to any claim for personal injuries to a child or recovery of medical expenses for injures. §60-6,269

Required Use of Motorcycle Protective Headgear:

Requirements:	A person shall not operate or ride on a motorcycle or moped unless they are wearing a Federally approved protective helmet. §§60-6,279, 60-6,280 and 60-6,281
Sanctions for Failure to Use:	Traffic Infraction: A fine of \$50 . §§60-688 and 60-6,282. No points are assessed against a person's driving record. §60-4,182(13)

Required Use of Motorcycle Eye Protection Device:

Requirements:	Note: This requirement is indirectly satisfied via the requirement to use a protective helmet.
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Required Use of Bicycle Protective Headgear:

Requirements:	None
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Required Use of Bicycle Eye Protection Device:

Requirements:	None
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Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	None ²¹³
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²¹³Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NEW HAMPSHIRE
New Hampshire Revised Statutes Annotated

Required Use of Safety Belts:²¹⁴:

Requirements:

I. When operating a motor vehicle, a person <18 years old must wear a safety belt. §265:107-a, I
II. No person shall transport a person <18 years old in a motor vehicle unless such person is properly secured in a safety belt. §265:107-a, I

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Violation: First offense-A fine of **\$25**. Subsequent offense-A fine of **\$50**. §§265:107-a, III Note: The law does not appear to assign points for a violation of these requirements.²¹⁵

Effect on Civil Liability:

A violation of these requirements shall not be used as evidence of contributory negligence in any civil action.²¹⁶ §265:107-a, IV

Required Use of Child Safety Restraint Systems:

Requirements:

No person shall transport a person <6 years old and 55 inches in height in a motor vehicle unless such child is secured in a Federally approved child passenger restraint. §265:107-a, I

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Violation: First offense-A fine of **\$25** Subsequent offense-A fine of **\$50**. §§265:107-a, III Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. §265:107-a, IV

Required Use of Motorcycle Protective Headgear:

Requirements:

New Hampshire has no helmet law because its previous helmet law (Title XXI, Section 265: 122 III) provides that "if Federal law is altered so that the mandatory wearing of

²¹⁴**Exemptions.** These requirements do not apply in the following circumstances: To persons who are being transported (1) in a vehicle used to transport passengers for hire, (2) in a school bus weighing >10,000 lbs, (3) in a school bus weighing <10,000 lbs. which was manufactured without safety belts, (4) in a vehicle manufactured before 1968, (5) on a motorcycle, (6) in an antique motor car, or (7) in a vehicle that is being operated in an authorized parade and that is traveling at a speed ≤10 mph. §265:107-a, II

²¹⁵Drivers <20 years old may have their driving privileges suspended or revoked for "misconduct, misuse or abuse of such privileges." §263:14, III (d). However, such action does not apply to a person <18 years old who violates §265:107a, I-a (i.e., who fails to wear a safety belt while operating a motor vehicle) for the first time. §263:14, IV

²¹⁶In *Thibeault v. Campbell*, 622 A.2d 212 (N.H. 1993), the State Supreme Court held that "a party's failure to use a seat belt is inadmissible to show negligence where the nonuse may have contributed to the party's injuries but was not a cause of the collision itself." 622 A.2d at 214

Required Use of Motorcycle Protective Headgear

(continued) protective headgear on motorcycles by persons less than 18 years of age is not required as a condition to the receipt by the State of any Federal funds, the State helmet requirement is rendered void.”

Required Use of Motorcycle Eye Protection Device:

Requirements: Unless a motorcycle is equipped with a windshield or screen that protects a driver's eyes, he/she shall wear either eyeglasses, goggles, or a protective face shield when operating such a motor vehicle. §265:123

Sanctions for Failure to Use: Violation: A fine of not more than **\$1,000**. §§265:2; 625:9, V and 651:2, IV (a). Note: The law does not appear to assign points for a violation of this requirement.²

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**²¹⁷

Sanctions for a Violation:

Exemptions:

²¹⁷Such a prohibition could exist in certain limited circumstances since the law does prohibit a driver from carrying passengers for “consideration” (express or implied) while operating a vehicle designed to transporting goods, materials, commodities, freight or merchandise. However, exemptions exist for persons who are transporting either (1) individuals enrolled in summer camps, (2) students, teachers or employees of colleges or schools for recreational or religious purposes, (3) employees of any town, county, the State, or an agency of the Federal Government, (4) employees of the owner of such a vehicle while going to or from their place of employment, or (4) individuals in vehicles which have been approved to transport school children under §266:7. §§265:106 and 265:107 A person who is found guilty of violating this prohibition commits a statutory violation and is subject to a fine of not more than \$1,000. §§262:41 and 651:2, IV(a)
In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

NEW JERSEY
New Jersey Statutes Annotated

Required Use of Safety Belts:²¹⁸

Requirements:

I. When a passenger automobile is being operated, the driver, each front-seat passenger, all passengers who are <8 years old and who weigh >80 lbs., and all passengers who are ≥8 years old but <18 shall wear safety belts. §39:3-76.2f(a)

II. A driver of a passenger automobile shall secure every passenger ≥8 years old <18 years in a safety belt. §39:3-76.2f(b)

Note: §39:3-76.2f has been held to be constitutional. *State v. Fazekas*, 569 A.2d 913 (N.J. Super. L. 1989).

III. Each passenger who is riding in a **school bus** equipped with safety belts shall wear such a belt when the vehicle is in operation.²¹⁹ §39:3B-11

Sanctions for Failure to Use or
Require the Use of Safety Belts:²²⁰

I. A violation of either I or II above: Quasi-Criminal/Petty Offense.²²¹

A fine of **\$20**. Note: Neither driver licensing nor automobile insurance eligibility points are assessed against a driver's record for a violation of the requirements in I or II above. In addition, a person is not subject to a surcharge under the merit rating plan (§17:29A-35). §39:3-76.2j

II. A violation of III above: Quasi-Criminal/Petty Offense.²²²

²¹⁸**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons operating or riding in a passenger automobile manufactured before July 1, 1966, or where such vehicle does not have to have safety belts under Federal law; (2) to persons who are unable to wear safety belts for physical or medical reasons; (3) to rural letter carriers of the U.S. Postal Service while performing official duties; and (4) to “[a] passenger automobile which was originally constructed with fewer safety seat belts systems than are necessary to allow the passenger to be buckled.” §39:3-76.2g. Note: A “passenger automobile” is defined as any automobile “used and designed for the transportation of passengers, other than omnibuses and school buses.” In addition, for the purposes of the safety belt use law, a “passenger automobile” also means a van, a pickup truck or a utility vehicle. An “automobile” is defined as any motor vehicle except a motorcycle. And, a “motor vehicle” is defined as any vehicle “propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.” §§39:1-1 and 39:3-76.2f

²¹⁹The law does not specify who is liable (operator or passenger) if a passenger is not in compliance with this requirement.

²²⁰**Licensing or Vehicle Registration Action.** A person’s license or his/her vehicle’s registration certificate may be suspended or revoked (for an indefinite period of time) under general provisions of the law which allow the driver licensing agency to take such action when a person has violated the traffic laws (i.e., any provision of Title 39, Motor Vehicle and Traffic Regulation). §39:5-30 and 39:5-31 Note: All of the provisions, concerning vehicle occupant protection (e.g., safety belt usage, child passenger protection, motorcycle helmets, et al.), are codified in Title 39.

²²¹Statutory law does not provide a clear classification for this offense. However, State Supreme Court decisions appear to hold that they are either quasi-criminal or petty offenses. *State v. Schreiber*, 585 A.2d 945 (N.J. 1991) and *State v. Macuk*, 268 A.2d a (N.J. 1970).

Required Use of Safety Belts:
(continued)

Imprisonment for not more than **30 days** and/or a fine of not more than **\$50**. §39:3B-6
III. **One dollar** is added to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) and (e)

Effect of Civil Liability:

I. The failure to wear a safety belt is not considered contributory negligence to the extent that such nonuse would be a bar to recover damages in a traffic accident. However, such nonuse can be used to reduce damages provided it can be determined that the damages to be reduced could have been avoided by using a safety belt. *Waterson v. General Motors Corp*, 544 A.2d 357 (N.J. 1988)²²³

Note: The law establishing these safety belt use requirements does not alter existing law with respect to the trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident. §39:3-76.2h

II. **School Bus.** Statutory law specifically provides that a school bus owner or operator is not liable for the injuries sustained by a passenger who fails to either use or properly wear a safety belt when use of such belts is required. §39:3B-11

Required Use of Child Safety Restraint Systems:

Requirements:

A person transporting a child <8 years old and who weighs <80 lbs. in a motor vehicle (except a school bus)²²⁴ shall secure such child in a Federally approved child passenger restraint system or booster seat in the rear seat. However, if the vehicle has no rear seats, the child must be secured in a child restraint system or booster seat. §39:3-76.2a

School Bus. A child who is riding in a school bus equipped with safety belts must be secured in a Federally approved child restraint system. §39:3B-11

Note: This statutory provision does not provide for either age or weight limitations related to child restraint usage.

Sanctions for Failure to Require
the Use of Child Restraint Systems:

I. Quasi-Criminal/Petty Offense: A fine of not less than **\$10** nor more than **\$25**. The fine shall be suspended upon proof of possession of a child restraint system. §39:3-76.2d. Note: The law does not appear to assign

²²³ Evidence of safety belt nonuse to reduce damage awards may be limited in cases where the injured party has consumed alcoholic beverages to the point of intoxication. Under such circumstances, the injured party may not understand the dangers associated with not using a safety belt. *Petitto v. Sands Hotel & Casino, Inc.*, 672 a.2d 253 (N.S. Super. A.D. 1996) (certification denied 677A.2d 761 (N.J. 1996))

²²⁴This requirement only applies to persons who are operating motor vehicles that are equipped with safety belts. §39:3-76.2a Note: See Footnote No. 1 for a definition of “motor vehicle.”

Sanctions for Failure to Require
the Use of Child Restraint Systems
(continued)

points for a violation of this requirement

II. **School Bus.** Quasi-Criminal/Petty Offense: For a violation of the requirement to use a child restraint device on a school bus, a person is subject to an imprisonment term of not more than 30 days and/or a fine of not more than \$50. §39:3B-6

III. **One dollar** is added to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) and (e)

Effect on Civil Liability:

In no event shall the failure to wear a child passenger restraint system or to use a booster seat be considered as contributory negligence, nor shall the failure to wear such a system be admissible as evidence in the trial of any civil action. §39:3-76.2a. Likewise, a **school bus** owner or operator is not liable for the injuries sustained by a child who was not using a child restraint device when such use is required by law. §39:3B-11

Required Use of Motorcycle Protective Headgear:²²⁵

Requirements:

A person operating or riding on a motorcycle²²⁶ must wear a State-approved protective helmet. §39:3-76.7(a)

Sanctions for Failure to Use³:

I. Quasi-Criminal/Petty Offense: A fine of not more than **\$25**. §39:3-79. Note: No points are assessed against a person's driving record for a violation of this requirement. §39:3-76.7(b)

II. **One dollar** is added to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) and (e)

Required Use of Motorcycle Eye Protection Device:²²⁷

Requirements:

No persons shall operate a motorcycle unless they wear State-approved goggles or face shields. §39:3-76.8

Sanctions for Failure to Use:

I. Quasi-Criminal/Petty Offense: A fine of not more than **\$25**. §39:3-79 Note: The law does not appear to assign points for a violation of this requirement.

II. **One dollar** is added to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) and (e)

²²⁵Under separate provisions of law, a motorcycle operator is responsible for making sure that a motorcycle passenger wears a helmet while riding either in an astride position or in a sidecar. An operator who fails to comply with this requirement is subject to a fine of not less than **\$50** nor more than **\$100**. §39:3-76.5(a).

²²⁶The term "motorcycle" does not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering. §§39:3-76.7 and 39:3-76.8

²²⁷A motorcycle operator does not have to comply with this requirement if the motorcycle is equipped with a State-approved windscreen. §39:3-76.9

Required Use of Bicycle Protective Headgear:²²⁸

- Requirements: A person <14 years old shall neither operate nor ride on a bicycle unless he/she is wearing a nationally approved bicycle helmet. This requirement includes persons who are riding on a bicycle while in a restraining seat or in a trailer being towed by the bicycle. §39:4-10.1(a)
- Sanctions for Failure to Use: I. A person <14 years old who violates this provision is given a warning citation.²²⁹ §39:4-10.2(a)
 II. Quasi-Criminal/Petty Offense: If it can be proven that a parent or legal guardian failed to exercise reasonable supervision or control over such a person to insure that he/she complies with this requirement, such parent or legal guardian may for a first offense be subject to a fine of not more than **\$25** and for a subsequent offense be subject to a fine of not more than **\$100**². §39:4-10.2(a)
 III. **One dollar** is added to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) and (e)

Required Use of Bicycle Eye Protection Device:

- Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

- Requirements: I. No person shall ride on and no operator shall knowingly allow a person to ride on a vehicle or any part of a vehicle that is not designed or intended for passenger use. §39:4-69²³⁰
 II. No person shall ride upon the rear end of a vehicle, without the consent of the driver, and when so riding, no part of the person's body shall protrude beyond the limits of the vehicle. §39:4-61

- Sanctions for a Violation: I. Quasi-Criminal/Petty Offense: An imprisonment term of not more than **15 days** and/or a fine of not more than

²²⁸**Exemptions.** Via municipal ordinances, a person may be exempt from using a bicycle helmet under the following circumstances: (1) Where the bicycle is being operated on a road or highway that is closed to motor vehicle traffic and is limited only to pedestrian or bicycle traffic or only during specified periods of time during which bicycles may be used; and (2) where a bicycle is being operated on a trail, route, course, boardwalk, path, or other area which has been set aside for pedestrian or bicycle use. However, such exemption shall not be granted when such trail, route, course, boardwalk, path, or other area is immediately adjacent to a road or highway used by motor vehicle traffic and where there is no barrier of sufficient height and rigidity to prevent the inadvertent or deliberate entry of a bicycle on such road or highway. §39:4-10.1(c)

²²⁹Under separate provisions of law, a violator may be subject to a fine of not more than **\$10**. §39:4-203.3

²³⁰A New Jersey Appellate Court has held that this provision prohibits a person from riding in the bed of a pickup truck. *Lombardo v. Hoag*, 634 A.2d 550 (N.J. Super A.D. 1993) (Petition for certification was denied by the N.J. Supreme Court, 640 A.2d 850 (N.J. 1994).)

NEW JERSEY

\$50. §39:4-20. Note: The law does not appear to assign points for a violation of these requirements.

II. **One dollar** is added to any fine for the Body Armor Replacement Fund and **\$1** is also added for the N.J. Spinal Cord Research Fund. §39:5-41(d) and (e)

Exemptions:

The requirement in I does not apply to an employee engaged in the necessary discharge of a duty. §39:4-69

JURISDICTION:
General Reference:

NEW MEXICO

New Mexico Statutes Annotated and New Mexico
Administrative Code (NMAC)

Required Use of Safety Belts:²³¹

Requirements:

I. When a motor vehicle²³² is in operation, all occupants (driver and passengers) shall wear safety belts. §66-7-372(A)

Note: The enforcement of this requirement does not have to be associated with the enforcement of any other statute. §66-7-373(D)

II. For passengers <18 yrs. old, see Required Use of Child Safety Restraint Systems below.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Penalty Assessment Misdemeanor: A fine of **\$25**.²³³ §§66-8-7 and 66-8-116(A). In addition, a person's driving record is assessed two points. NMAC 18.19.5.52

Effect on Civil Liability:

Failure to comply with this requirement shall not in any instance constitute fault or negligence and shall not limit or apportion damages. §66-7-373(A) and *Mott v. Sun Country Garden Products, Inc.*, 901 P.2d 192 (N.M. App. 1995)(cert. denied 898 P.2d 120 (N.M. 1995))

Required Use of Child Safety Restraint Systems:²³⁴

Requirements:

I. A person shall not operate a passenger car, van or pickup truck²³⁵ unless all passengers <18 years old are "properly restrained." §66-7-369(A)

II. Each person <18 years old shall be properly secured in either a child passenger restraint or safety belt, unless all seating positions that are equipped with safety belts are occupied, as follows:

²³¹**Exemptions.** The requirement to wear a safety belt does not apply (1) to persons who for medical reasons cannot wear such a belt or (2) to rural letter carriers of the U.S. Postal Service when performing official duties. §66-7-372(B)

²³²The term "motor vehicle" refers either (1) to a motor vehicle having a gross vehicle weight ≤10,000 lbs. or (2) to a motor vehicle that must have a safety belt system under Federal law. §66-7-372(A)

²³³The following additional fees are assessed: A fee of \$10 to cover local government corrections costs; a fee of \$10 to cover the costs of court automation; a fee of \$3 to fund traffic education and enforcement; a fee of \$1 to fund judicial education; a fee of \$5 that is deposited into the brain injury services fund; and a court facilities fee of \$10 to \$24. §66-8-116.3

²³⁴**Exemptions.** The requirement to use either a child passenger restraint system or a safety belt does not apply to children being transported in an authorized emergency vehicle, a public transportation vehicle or a school bus. §66-7-369(A)

²³⁵The requirement does not apply to persons <18 years old who are riding in an authorized emergency vehicle, public transportation, or on a school bus. §66-7-369(A)

Required Use of Child Safety Restraint Systems:

- (1) A child <1 year old must be properly secured in the rear seat of a vehicle that is equipped with safety belts in a rear-facing child passenger device that meets federal standards.²³⁶ §66-7-369(B)(1)
- (2) A child ≥1 but <4 years old regardless of weight or a child weighing <40 lbs. regardless of age must be properly secured in a child passenger restraint device that meets federal standards. §66-7-369(B)(2)
- (3) A child ≥5 through 12 years old must be properly secured in a child passenger restraint device or a safety belt. §66-7-369(B)(3)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Penalty Assessment Misdemeanor: A fine of **\$25**. §§66-8-7 and 66-8-116(A) In addition, a person's driving record is assessed 2 points. 18 NMAC 18.19.5.52

Effect on Civil Liability:

Failure to be secured by a child passenger restraint device or by a safety belt shall not constitute fault or negligence in any instance, and shall not limit or apportion damages. §§66-7-369(B) and 66-7-373(A)

Required Use of Motorcycle Protective Headgear:

Requirements:

No person <18 years shall operate or ride in a motorcycle unless he/she is wearing a State-approved safety helmet.²³⁷ §66-7-356(A)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **90 days** and/or a fine of not more than **\$300**. §66-8-7(A) and (B) Note: The law does not appear to assign points for a violation of this requirement

Required Use of Motorcycle Eye Protection Device:

Requirements:

Unless a motorcycle has a fixed windshield, a motorcycle operator shall wear a State-approved eye protection device. §66-7-355(B)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **90 days** and/or a fine of not more than **\$300**. §66-8-7(A) and (B) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Required Use of Bicycle Eye Protection Device:

²³⁶ In situations where the vehicle is not equipped with a rear seat, the child may ride in the front seat if the passenger-side air bag is deactivated or if the vehicle is not equipped with a deactivation switch for such air bag. §66-7-369(B) (1).

²³⁷ Failure to wear a safety helmet in compliance with the law shall not constitute contributory negligence. §66-7-356(B).

Requirements:

None

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **Note:** Persons <11 years old cannot ride in a motor vehicle (which includes a pickup truck) unless they are secured either in child passenger restraint devices or by safety belts. See above.

JURISDICTION:

NEVADA

General Reference: Nevada Revised Statutes and Nevada Administrative Code (NAC)

Required Use of Safety Belts:²³⁸

Requirements: A person driving on any highway, road, or street in this State, and any front- or back-seat passenger >5 years old riding in such a motor vehicle (with an unladen weight of <10,000 lbs., including a taxicab²³⁹) shall wear a safety belt. §484.641

2. If the passenger is a child who:

(a) is 6 years of age or older but less than 18 years of age, regardless of weight; or (b) is less than 6 years of age but who weighs more than 60 pounds, a citation must be issued to the driver for failure to require that child to wear the safety belt, but if both the driver and that child are not wearing safety belts, only one citation may be issued to the driver for both violations.

Any person who violates the safety belt requirement shall be punished by a fine of not more than \$25 or by a sentence to perform a certain number of hours of community service.

²³⁸**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who are unable to wear a safety belt for physical or medical reasons; (2) to persons driving or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (3) to employees of the U.S. Postal Service while delivering mail in the rural areas of the State; (4) to persons who frequently leave a vehicle for the purpose of delivering property and where the vehicle does not exceed 15 mph; and (5) to passengers riding in a public transportation vehicle including a school bus or emergency vehicle. §484.641(6) In addition, the State can exempt persons from this requirement who ride in motor vehicles or seating posting that the State has determined would make compliance impractical. §484.641(5)

²³⁹ 1. Any passenger 18 years of age or older who rides in the front or back seat of any taxicab on any highway, road, or street in this State shall wear a safety belt if one is available for that seating position, except that this subsection does not apply:

- (a) to a passenger who possesses a written statement by a physician certifying that he/she is unable to wear a safety belt for medical or physical reasons; or
- (b) if the taxicab was not required by Federal law at the time of initial sale to be equipped with safety belts.

2. A citation must be issued to any passenger who violates the provisions of subsection 1. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. Any person who violates the provisions of subsection 1 shall be punished by a fine of not more than \$25 or by a sentence to perform a certain number of hours of community service.

3. A violation of subsection 1:

- (a) is not a moving traffic violation under NRS 483.473;
- (b) may not be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484.377.

(c) May not be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale, or use of a product.

4. An owner or operator of a taxicab shall post a sign within each of the taxicabs advising passengers that they must wear safety belts while being transported by the taxicab. Such a sign must be placed within the taxicab so as to be visible to and easily readable by passengers, except that this subsection does not apply if the taxicab was not required by Federal law at the time of initial sale to be equipped with safety belts.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Secondary Enforcement. A citation may be issued for a violation of this requirement only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. §484.641(3)

Misdemeanor: A fine of not more than \$25 or a sentence to perform a number of hours of community service.²⁴⁰ §§484.999(1) and 484.641(3). Note: A violation of this requirement is not a moving violation for license sanctioning purposes. §484.641(4)(A)

Effect on Civil Liability:

A violation of this requirement may not be considered as negligence or as causation in any civil action or as negligence or reckless driving. §484.641(4)(b) In addition, such a violation may not be considered as misuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale, or use of a product. §484.641(4)(c)

Required Use of Child Safety Restraint Systems:²⁴¹

Requirements:

- (a) A person transporting a child in a motor vehicle who is <6 years old and who weighs 60 lbs. or less shall secure such child in a child restraint system in accordance with Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. part 571; that
- (b) is appropriate for the size and weight of the child; and
- (c) is installed within and attached safely and securely to the motor vehicle:
 - (1) in accordance with the instructions for installation and attachment provided by the manufacturer of the child restraint system; or
 - (2) in another manner that is approved by the National Highway Traffic Safety Administration. {§484.474(1) Et seq.}

Sanctions for Failure to Require
the Use of Child Restraint Systems:²⁴²

- 2. A person who violates the provisions of subsection 1 shall be:
 - (a) Required to complete a program of training conducted by a person or agency approved by the Department of Public

²⁴⁰If the violator is child ≥5 but <18 years old, the driver is cited for the offense. However, if both the driver and such child are in violation of this requirement, only one citation may be issued. §484.641(3)

²⁴¹**Exemptions.** The requirement to use a child restraint system does not apply in the following circumstances: (1) To children being transported in a means of public transportation including a taxi, school bus, or emergency vehicle; and (2) to children who have either a physical or medical difficulty that would make use of such a system either impractical or dangerous. §484.474(5)(a) and (b)

²⁴²As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat, or position children. The term includes, without limitation:

- (a) booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a safety belt;
- (b) integrated child seats; and
- (c) safety belts that are designed specifically to be adjusted to accommodate children. §484.474(6)

Sanctions for Failure to Require
the Use of Child Restraint Systems
(continued)

Safety in the installation and use of child restraint systems;
and

(b) be fined not less than \$50 nor more than \$500, or required to perform not less than 8 hours nor more than 50 hours of community service. The court may waive any amount of the fine in excess of \$50 or any amount of the community service in excess of 8 hours if a person or agency approved by the Department of Public Safety certifies that the violator has:

(1) completed the program of training required by paragraph (a); and

(2) presented for inspection by the person or agency an installed child restraint system that satisfies the provisions of subsection 1. The court shall make available a list of persons and agencies approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems. § 484.474(2)

A violation of this requirement is not a moving violation for license sanctioning purposes. § 484.474(3)

Effect on Civil Liability:

A violation of this requirement may not be considered (1) as negligence in any civil action or (2) as negligence or reckless driving. § 484.474(4)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person operating or riding on a motorcycle shall wear state approved protective headgear. This requirement does not apply to persons operating or riding on tri-mobiles or mopeds. § 486.231(1) and (2)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than 6 months and/or a fine of not more than \$1,000.²⁴³ §§ 193.150(1) and 486.381. Two (2) points are assessed against a person's driving record. NAC 483.510

Required Use of Motorcycle Eye Protection Device:²⁴⁴

Requirements:

A person operating or riding on a motorcycle or a tri-mobile shall wear State-approved glasses, goggles or a face shield. This requirement does not apply to persons operating or riding on mopeds. § 486.231(1) and (2)

²⁴³As an alternative to either an imprisonment term or a fine, an offender may be sentenced to perform a fixed period of work for the benefit of the community. § 193.150(2)

²⁴⁴This requirement does not apply to persons operating or riding (1) on either a motorcycle or a tri-mobile if such vehicle is equipped with a transparent windscreen; (2) in a motorcycle being driven in an authorized parade; or (3) in a three-wheeled motorcycle where the driver or passengers are within an enclosed cab. § 486.231(3), (4) and (5)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than 6 months and/or a fine of not more than \$1,000. §§193.150(1) and 486.381 Two points are assessed against a person's driving record. NAC 483.510

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

N/A

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

In counties with a population $\geq 100,000$, a driver cannot operate a motor vehicle with a person < 18 yrs old riding in an area not designed or intended for passenger use. §484.473(1) and (2)(a)

Sanctions for a Violation:

Misdemeanor: A fine of at least \$35 but not more than \$100. This offense is not considered a moving violation, nor may it be considered negligence in a civil action or negligent or reckless driving. §484.473(3), (5)(a) and (5)(b)

Exemptions:

This requirement does not apply if the vehicle is (1) not being driven on a freeway or a road with two or more lanes of traffic in one direction, (2) being used for farming or ranching, or (3) being used in an authorized parade. §484.473(2)(b).

JURISDICTION:
General Reference:

NEW YORK

McKinney's Consolidated Laws of New York **Note:** Most citations are to the Vehicle and Traffic Law (V&T Law) New York Code of Rules and Regulations (NYCRR)

Required Use of Safety Belts:²⁴⁵

Requirements:

- I. A person, when transporting a child <16 years old in the back seat of a motor vehicle,²⁴⁶ shall secure such child in a safety belt. V&T Law §1229-c(1)
 - II. A person, when transporting a person <16 years old in the front seat of a motor vehicle, shall secure such person in a safety belt. V&T Law §1229-c(2)
 - III. When a motor vehicle is in operation, the driver and all front-seat passengers ≥16 years old shall be secured in a safety belt. V&T Law §1229-c(3)
- V&T Law §1229-c has been held neither (1) to exceed the State's constitutional police powers nor (2) to violate a person's constitutional rights of either privacy or equal protection of the laws. *Wells v. State*, 495 N.Y.S.2d 591 (Sup. 1985) (affirmed, 521 N.Y.S.2d 604 (A.D. 4 Dept. 1987))

Sanctions for Failure to Use or
Require the Use of Safety Belts:

- I. Civil Fine: A person, who violates III above, is subject to a fine of not more **\$50**.²⁴⁷ V&T Law §1229- c(5)

²⁴⁵**Exemptions.** The requirements to use a safety belt do not apply in the following circumstances: (1) To persons who for physical or medical conditions cannot use a safety belt; and (2) to rural letter carriers of the U.S. Postal Service while performing official duties. V&T Law §1229-c(7) and (10)

Standing Prohibited on Certain Motor Vehicles. I. When the number of passenger is greater than the number of seats available, it is unlawful to operate a camp or charter omnibus for a distance ≥10 miles with any passenger standing. V&T Law §1229-b(1) II. When transporting either students <21 years old, teachers, or supervisory personnel, it is unlawful to operate a school bus either to or from a school or on school activities while any passengers are standing. Until June 30, 2004, there are certain exceptions to this requirement based upon the seating capacity of the school bus being operated. V&T Law §1229-b(2) and Education Law §3635-c III. It is a traffic infraction to violate these requirements. The following sanctions may be imposed: for a first offense, a fine of not more than \$100 and/or jail for not more than 15 days; for a second offense (within 18 months), a fine of not more than \$200 and/or jail for not more than 45 days; and, for a third or subsequent offense (within 18 months), a fine of not more than \$300 and/or jail for not more than 90 days. V&T Law §1800(a) and (b). The law does not appear to assess points against a driver's license record for a violation of these requirements.

²⁴⁶The term "motor vehicle" does not include a bus, a school bus (except when carrying children <4 years old), an authorized emergency vehicle, a taxi or liveries. V&T Law §1229-c(4), (9) and (11) The term does not include motor vehicles that do not have to be equipped with safety belts under V&T Law §383(1). V&T Law §1229-c(4) In brief, under V&T Law §383(1), only motor vehicles manufactured after June 30, 1964, and designated as model year 1965 or later must be equipped with seat belts.

School Buses. The Vehicle and Traffic Law requires that school buses sold in the State be equipped with safety belts. V&T Law §383(5) In addition, the Education Law provides that a board of education or board of trustees may via regulations provide that safety belts be installed on the school buses under its jurisdiction. Education Law §3635-a Although the Vehicle and Traffic Law does not require the use of safety belts by persons riding in a school bus, the Education Law provides that a board of education or board of trustees may, via regulations, provide that on school buses under its jurisdiction safety belts be used when such vehicles are in operation. Education Law §3635-a

²⁴⁷The law is not clear as to whether points can be assigned to a person's driving record for a violation of this requirement. The law provides that two points are assigned for a traffic law violation where no specific point value has been assigned for the offense. This would appear to be the case here. However, points cannot be assigned where the violation did "not result from the operation of a motor vehicle." As the law does not clearly provide whether this offense results from vehicle operation, it is uncertain whether points can be assigned for its violation. 15 NYCRR 131.3(a) and (b)(7)(vii) and *People v. Erdman*, 546 N.Y.S.2d 775 (Just. Ct. 1989)

Required Use of Safety Belts: (continued)

Sanctions for Failure to Use or
Require the Use of Safety Belts:
(continued)

II. Civil Fine: A person, who violates either I or II above, is subject to a fine of not less than **\$25** nor more than **\$100**. V&T Law §1229-c(5) In addition, a person is assessed three points against his/her driving record. 15 NYCRR 131.3(b)(6)(vi)

Effect on Civil Liability:

Evidence of noncompliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead non-compliance as an affirmative defense.²⁴⁸ V&T Law §1229-c(8) This statute was applied in *Stein v. Penatello*, 587 N.Y.S.2d 37 (A.D. 2 Dept. 1992), and *Davis v. Bradford*, 642 N.Y.S.2d 48 (A.D. 2 Dept. 1996).

Required Use of Child Safety Restraint Systems:²⁴⁹

Requirements:

I. A person, when transporting a child <4 years old in the back seat of a motor vehicle, shall secure such child in a Federally approved child restraint system. V&T Law §1229-c(1) and *Thorel v. Varghese*, 621 N.Y.S.2d 633 (A.D. 2 Dept. 1995) (applying law only to drivers)
II. A person when transporting a child <4 years old in the front seat of a motor vehicle shall secure such child in a Federally approved child restraint system. V&T Law §1229-c(2)
III. Persons transporting children <4 years old in a **school bus** shall secure such children in a Federally approved child restraint system that is detachable or removable. V&T Law §1229-c(11)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Civil Fine: A person who violates any of the above requirements is subject to a fine of not less than **\$25** nor more than **\$100**. The fine for a first violation is waived with proof of child restraint system purchase. V&T Law §1229-c(5) and (6). In addition, a person is assessed three points against his/her driving record. 15 NYCRR 131.3(b)(6)(vi)

²⁴⁸Rear-seat passengers who fail to use a safety belt can have any damage award for injuries resulting from an automobile accident reduced on the grounds that they failed to mitigate damages. *Spier v. Barker*, 323 N.E.2d 164 (N.Y. 1974), and *Diehl v. Ogorewac*, 836 F.Supp. 88 (E.D. N.Y. 1993)

²⁴⁹**Exemptions.** These requirements do not apply to children who for physical or medical conditions cannot use a child restraint system. V&T Law §1229-c(7)

Effect on Civil Liability:

Evidence of noncompliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead noncompliance as an affirmative defense.

V&T Law §1229-c(8)

Required Use of Motorcycle Protective Headgear:²⁵⁰

Requirements:

Any person who operates or rides on a motorcycle²⁵¹ shall wear a State-approved protective helmet.²⁵² V&T Law §381(6)

Sanctions for Failure to Use:

Imprisonment for not more than **30 days** and/or a fine of not more than **\$100**. V&T Law §381(13)

Required Use of Motorcycle Eye Protection Device:

Requirements:

Any person who operates a motorcycle shall wear State-approved goggles or a face shield. V&T Law §381(7)

Sanctions for Failure to Use:

Imprisonment for not more than **30 days** and/or a fine of not more than **\$100**. V&T Law §381(13)

Required Use of Bicycle Protective Headgear:²⁵³

Requirements:

I. A person <14 years old who operates a bicycle or a scooter shall wear a helmet approved by the Commissioner of Motor Vehicles.²⁵⁴ V&T Law §1238(2- a) and (5)(a) and (b)

II. No bicycle operator shall allow a person ≥5 but <14 years old to ride on a bicycle unless he/she is wearing a helmet approved by the Comm. of Motor Vehicles. V&T Law §1238(2-a) and (5)(a) and (b)

²⁵⁰Local law enforcement authorities may exempt a person from this requirement when they are participating in an authorized parade or other public exhibition. V&T Law §381(6)

²⁵¹The term “motorcycle” is defined as “[e]very motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.” V&T Law §123. Via judicial interpretation of this provision, this term includes “minibikes.” *Dean v. Holland*, 350 N.Y.S.2d 859 (Sup. Ct. 1973), and *Tyler v. Traveler’s Ins., Co.*, 442 N.Y.S.2d 746 (Sup. Ct. 1981)

²⁵²There is authority, at the trial court level, that indicates that the failure to wear protective headgear might be a factor that can be used to reduce a damage award in favor of motorcycle operators or passengers who have sustained injuries in a traffic accident. *Dean v. Holland*, 350 N.Y.S.2d 859 (Sup. 1973), and *Penzell v. State*, 466 N.Y.S.2d 562 (Ct. Cl. 1983)

²⁵³**Other Requirements.** I. A person is prohibited from transporting a child <1 year old on a bicycle. This prohibition includes carrying such a child in a pack fastened to the operator. There is no sanction for a first violation of this prohibition. However, for a second violation, an offender is subject to a civil fine of not more than **\$50**. V&T Law §1238(1). II. No person ≥1 but <14 years old shall ride on in-line skates unless he/she is wearing a State-approved helmet. There is a civil fine of not more than **\$50** for a violation of this provision. See Footnote No. 10. V&T Law §1238(5-a) and (6)(a)

²⁵⁴Failure to comply with these requirements shall not constitute contributory negligence or assumption or risk and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person. In addition, such a failure shall not diminish or reduce the damages recoverable in any action. V&T Law §1238(7).

Note: The above requirements do not apply where a county, city, town, or village has enacted a local law or ordinance similar to such law. V&T Law §1238(9)

III. A person is prohibited from transporting a child ≥ 1 but < 5 years old on a bicycle unless such child is (1) wearing a helmet approved by the Commissioner of Motor Vehicles and (2) is placed in a separate seat which is attached to the bicycle. V&T Law §1238(2)(a), (b) and (2-a).

Sanctions for Failure to Use:

Civil Fine: A fine of not more than **\$50**.²⁵⁵ V&T Law §1238(3) and (6)(a). The fine for a first violation shall be waived upon proof of purchase of a helmet. V&T Law §1238(4).

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. An auto truck cannot be operated > 5 miles if more than one-third of the vehicles passengers are standing.²⁵⁶ V&T Law §1222(1)

II. An operator (or an owner) of an auto truck (i.e., pickup truck) shall not allow such vehicle to be driven > 5 miles while there are > 5 persons in the bed of such vehicle who are < 18 years old. Important. This requirement does not apply if a person > 18 years old is riding in the bed of the vehicle with these persons. V&T Law §1222(2)

Sanctions for a Violation:

Traffic Infraction: First offense-An imprisonment term of not more than **15 days** and/or a fine of not more than **\$100**. Second offense (within 18 months)-An imprisonment term of not more than **45 days** and/or a fine of not more than **\$200**. Third or subsequent offense (within 18 months)-An imprisonment term of not more than **90 days** and/or a fine of not more than **\$300**. V&T Law §1800(a) and (b)

Exemptions:

I. The requirement of I above does not apply to persons or corporations operating an agency or agencies for public service. V&T Law §1222(1)
II. The requirement in II above does not apply if there is at least one person > 18 years old in the body of the truck. V&T Law §1222(2)

²⁵⁵If the violation of the person < 14 years old occurs in the presence of that person's parents or guardian where such parent or guardian is ≥ 18 years old, the summons for the offense is issued only to the parent or guardian. V&T Law §1238(8). Note: The provisions of V&T Law §1238(8) do not apply to violations of the requirement that children under 14 wear a helmet while riding scooters.

²⁵⁶This requirement does not apply if the truck (1) has suitable seats that are attached to the vehicle's body, (2) has side racks of a least three feet in height above the vehicle's floor and (3) has tail board or gate which is securely closed. V&T Law §1222(1)

JURISDICTION:
General Reference:

OHIO
Ohio Revised Code Annotated

Required Use of Safety Belts:²⁵⁷

Requirements:

I. No person shall operate an automobile²⁵⁸ (or school bus) unless he/she wears a safety belt.²⁵⁹ §4513.263(A)(2) and (B)(1)

II. A person shall not operate an automobile unless all front-seat passengers are wearing safety belts. §4513.263(A)(3) and (B)(2)

III. A front seat passenger shall not ride in an automobile unless he/she is wearing a safety belt. §4513.263(A)(2) and (B)(3)

Secondary Enforcement. A law enforcement officer shall not stop a person operating an automobile for the sole purpose of determining a violation of these requirements. §4513.263(D)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

I. A person who violates I²⁶⁰ above is subject to a fine of **\$30**. (Minor Misdemeanor). §§2901.02(G) and 4513.99(F)

II. A passenger who violates III above is subject to a fine of **\$20**. (Minor Misdemeanor). §§2901.02(G) and 4513.99(G)

Note: No points are to be assessed against person's driving record for a violation of the above requirements. §4507.021(G)(16)

Effect on Civil Liability:

A violation of these requirements shall not be considered as either contributory negligence or tortious conduct, nor shall such failure be used to diminish recovery of compensatory damages in a civil action, except in cases of product liability where it shall be admissible. §4513.263(F)

²⁵⁷**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) to a person required to be in a child restraint device; (2) to automobile operators while performing official duties for the U.S. Postal Service; (3) to automobile operators who are delivering newspapers; and (4) to persons who for physical reasons cannot use a safety belt. §4513.263(C)

²⁵⁸The term "automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to have safety belts under Federal law. §4513.263(A)(1)

²⁵⁹The law refers to a safety belt as an "occupant restraining device." §4513.263(A)(2)

²⁶⁰Note: The law is not clear as to whether there is a penalty for a violation of II. The penalty provision of the law, §4513.99, does not provide a specific sanction for a violation of this requirement. However, the sanction for a violation of I may apply.

Required Use of Child Safety Restraint Systems:²⁶¹

Requirements:

For a motor vehicle²⁶² that is registered in this State, the operator (except a taxicab or public safety vehicle²⁶³

Required Use of Child Safety Restraint Systems:

Requirements: (continued)

operator), who transports a child who is <4 years old or who weighs <40 lbs., shall secure such child in a Federally approved child restraint system.²⁶⁴ §4511.81(A)

Sanctions for Failure to Require the Use of Child Restraint Systems:

First offense (Minor Misdemeanor)-A fine of not more than **\$100**. §§2929.21(D) and 4511.99(H)(1)(a)
Subsequent offense (4th Degree Misdemeanor)-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$250**. §§2929.21(B)(4), (C)(4) and (D), 4511.81(F) and 4511.99(H)(1) and (2). In addition, although the law is not specific, it appears that a person is assessed two points against his/her driving record. §4507.021(G)(16)

Effect on Civil Liability:

The failure an operator to comply with this requirement is not negligence that can be imputed to the child. Evidence of such a failure is not admissible in any civil action of the child to recover damages against any other person.
 §4511.81(D)

Required Use of Motorcycle Protective Headgear:²⁶⁵

Requirements: I. No person <18 years old, who holds a motorcycle operator's license, shall operate or be a passenger on a motorcycle unless they are wearing a State-approved protective helmet. §4511.53
 II. No person (regardless of age) who holds a novice motorcycle operator's license shall operate or be a passenger on a motorcycle unless they are wearing a State-approved protective helmet. §4511.53
 III. A person (regardless of age), who is a passenger on a motorcycle operated by a person <18 years, must wear a State-approved protective helmet. §4511.53

Sanctions for Failure to Use:

First offense (Minor Misdemeanor)-A fine of not more than **\$100**. Second offense (within 1 year) (4th Degree Misdemeanor)-An imprisonment term of not more than **30**

²⁶¹**Exemptions.** The requirement to use a child restraint system does not apply when an emergency exists that threatens the life of either the vehicle operator or the child. §4511.81(E)

²⁶²This requirement only applies to motor vehicles that are required to be equipped with seat belts under Federal law. §4511.81(A)

²⁶³A “public safety vehicle” means either (1) ambulances, (2) a motor vehicles used by law enforcement officers, (3) motor vehicles used to provide emergency medical services, (4) vehicles used by fire departments, or (5) vehicles used by the commercial motor vehicle safety enforcement unit. §4511.01(E)

²⁶⁴This same requirement applies to persons who transport children in motor vehicles (except taxicabs) for nursery schools, kindergartens, or daycare centers. §4511.81(B)

²⁶⁵**Motorized Bicycle.** A person <18 years old who operates a motorized bicycle shall wear a protective helmet. §4511.521. A violation of this requirement is a Minor Misdemeanor. §4511.99(F). A person who has been convicted of a Minor Misdemeanor is subject to a fine of not more than **\$100**. §2929.21(D)

days and/or a fine of not more than **\$250**. Third or subsequent offense (within 1 year) (3rd Degree Misdemeanor)-An imprisonment term of not more than **60 days** and/or a fine of not more than **\$500**. §§2929.21(B)(3), (B)(4), (C)(3), (C)(4) and (D) and 4511.99(D) In addition, although the law is not specific, it appears that a person is assessed two points against his/her driving record. §4507.021(G)(16)

Required Use of Motorcycle Eye Protection Device:

Requirements: No person shall operate or ride on a motorcycle without using safety glasses or other protective eye device. §4511.53

Sanctions for Failure to Use: First offense (Minor Misdemeanor)-A fine of not more than **\$100**. Second offense (within 1 year) (4th Degree Misdemeanor)-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$250**. Third or subsequent offense (within 1 year) (3rd Degree Misdemeanor)-An imprisonment term of not more than **60 days** and/or a fine of not more than **\$500**. §§2929.21(B)(3), (B)(4), (C)(3), (C)(4) and (D) and 4511.99(D) In addition, although the law is not specific, it appears that a person is assessed two points against his/her driving record. §4507.021(G)(16)

Required Use of Bicycle Protective Headgear:

Requirements: **None.**

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. A driver of a truck, trailer or semi-trailer shall not knowingly permit a person <16 years old to ride in the vehicle's unenclosed or unroofed cargo storage area when such vehicle is traveling >25 mph. §4511.51(E)
II. A driver of a truck, trailer, or semi-trailer shall not permit a person to ride in the cargo storage area or a tailgate of the vehicle while the tailgate is unlatched. §4511.51(F)
III. No operator shall allow a person to and no person shall hang onto or ride on the outside of any motor vehicle, streetcar, or trackless trolley while it is moving. §4511.51(C) and (D)

Sanctions for a Violation:

I. A violation of the requirements in I and II above is a minor misdemeanor: A fine of not more than **\$100**. §§2929.21(d) and 4511.99(F) following sanctions apply for a violation of III above. First offense (Minor Misdemeanor)-A fine of not more than **\$100**. Second offense (within 1 year) (4th Degree Misdemeanor)-A jail term of not more than **30 days** and/or a fine of not more than **\$250**

Prohibition Against Riding in Unsecured Portion of Vehicle:
(continued)

fine of not more than **\$500**. §§2929.21 and 4511.99(D)(1)

Third or subsequent offense (within 1 year) (3rd Degree Misdemeanor)-A jail term of not more than **60 days** and/or a

III. Although the law is not specific, it appears that a person is assessed two points against his/her driving record for a violation of the above requirements. §4507.021(G)(16)

Exemptions:

I. The requirement in I above does not apply in the following circumstances: (1) The person <16 years old is seated in the cargo area and is wearing a safety belt; and (2) an emergency exists that threatens the life of either the driver or the person <16 years old. §4511.51(E)(1) and (2)
II. The requirement in II above does not apply to workers who riding in such vehicles and who are performing specialized highway or street maintenance or construction under the authority of a public agency. §4511.51(F)
III. The requirement in III does not apply to mechanics or test engineers making repairs or adjustments or to workers performing specialized highway or street maintenance or construction under the authority of a public agency. §4511.51(C) and (D)

JURISDICTION:
General Reference:

OKLAHOMA
Oklahoma Statutes Annotated

Required Use of Safety Belts:²⁶⁶

Requirements:

When a passenger car²⁶⁷ is in use, the driver and every front-seat passenger shall wear a properly adjusted and fastened safety seat belt system.²⁶⁸ Title 47, §12-417(A)
Note: A local safety belt use ordinance, which was similar to the State's safety belt use law, has been held to be constitutional. *City of Tulsa v. Martin*, 775 P.2d 824 (Okla. Cr. 1989) (cert. denied 493 U.S. 897, 107 L.Ed.2d 200, 110 S. Ct. 251 (1989)).

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: Fine and court costs cannot exceed **\$20**.
No points shall be assessed against an offender's driving record.
Title 47, §§12-417(D) and (E), 12-418 and 17-101(A).

Effect on Civil Liability:

A violation of this requirement shall not be used in a civil proceeding and use or nonuse of a safety belt shall not be submitted into evidence in any civil suit. Title 47, §12-420

Required Use of Child Safety Restraint Systems²⁶⁹:

Requirements:

I. Every driver, when transporting a child <4 years old and weighing ≤60 lbs. in a motor vehicle, shall secure such child in a Federally approved child restraint system. Title 47, §11-1112(A) and (C)(1).
II. Every driver, when transporting children ≥4 but <13 years old, must secure such child in either a child passenger restraint system or a safety belt. Title 47, §11-1112(B) and (C)(1).

Sanctions for Failure to Require
the Use of Child Restraint Systems:

A fine of **\$10** plus court costs of not more than **\$15**. The fine shall be suspended upon proof of purchase or acquisition of a child restraint system. No points shall be

²⁶⁶**Exemptions.** The requirement to use a safety belt system does not apply in the following circumstances: (1) to drivers or passengers who are unable to wear such a belt for medical reasons; and (2) to route carriers of the U.S. Postal Service while performing official duties. Title 47, §12-417(B) and (C)

²⁶⁷The safety belt requirement applies to motor vehicles that are required to have safety belts under Federal law. In addition, the term "passenger car" is defined as a "vehicle," which means any type of conveyance which transports persons or property on a highway. The term "vehicle" does not include bicycles, trailers (except travel trailers and rental trailers), implements of husbandry (farm vehicles), trucks, truck-tractors, recreational vehicles, motorcycles, and motorized bicycles. However, "passenger car" does include the passenger compartment of pickups, vans, minivans, and sport utility vehicles, but does not include vehicles used primarily for farm use (I.e., a "pickup, truck, truck-tractor owned and operated by one or more farmers and used primarily for farm use and not for commercial or industrial purposes."). Title 47, 12-417(A)(2).

²⁶⁸The operator of a school bus shall wear a safety belt when such vehicle is in motion. A person who violates this requirement commits a misdemeanor and is subject to fine of not less than **\$25** or more than **\$100**. Title 70, §24-121

²⁶⁹**Exemptions.** These requirements do not apply in the following circumstances: (1) to a driver who is operating a school bus, taxicab, moped, motorcycle, or a motor vehicle that is not required to be equipped with safety belts; (2) to a driver of an ambulance or emergency vehicle; (3) to a driver where all of the available safety belts are in use; and (4) to children who for medical reasons are unable to use either a child restraint system or a safety belt. Title 47, §11-1112(C)(1), (2), (3) and (4)

assessed for a violation of these requirements. Title 47, §§11-1112(G) and 17-101(A)

Required Use of Child Safety Restraint Systems:
(continued)

Effect on Civil Liability:

A violation of these requirements shall not be admissible as evidence in any civil action or proceeding for damages. Also, in any action brought by or on behalf of an infant for personal injuries or wrongful death, the failure to comply with these requirements shall not be used in the aggravation or mitigation of damages. Title 47, §11-1112(E) and (F)

Required Use of Motorcycle Protective Headgear:

Requirements:

When operating or riding on a motorcycle, motor-driven cycle or motor scooter,²⁷⁰ a person <18 years old shall “properly” wear a crash helmet that complies with 49 CFR 571.218. Title 47, §40-105(B)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not less than **\$20** or more than **\$500**. Title 47, §§17-101(C) and 40-106. Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle or motor scooter is not equipped with a windshield, the operator shall wear goggles or a face shield which is designed to protect them from foreign objects. Title 47, §40-105(A)(2)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not less than **\$20** or more than **\$500**. Title 47, §§17-101(C) and 40-106. Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:²⁷¹

Requirements:

When operating an electric-assisted bicycle, a person ≤18 years old shall wear a nationally approved bicycle helmet. Title 47, §11-805.2(5)

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **6 months** and/or a fine of not less than **\$20** nor more than **\$500**. Title 47, §17-101(C) Note: The law does not appear to assign points for a violation of this requirement.

²⁷⁰ Applies only when riding motor scooters on a public road. Title 47, §40-105

²⁷¹ The Oklahoma Legislature has adopted a resolution encouraging municipalities to enact ordinances that require any person <16 years old, who is riding on a bicycle (operator or passenger), to wear a safety helmet. House Concurrent Resolution 1003 adopted in 1997

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A person who is operating a motor vehicle shall not allow passengers to ride outside of the “passenger compartment” of the vehicle. Title 47, §11-1114(A).

Sanctions for a Violation: Misdemeanor: A fine of **\$10** plus court costs of **\$15**. The law specifically provides that no points shall be assessed against a driver for a violation of this requirement. Title 47, §§11-1114(B) and 17-101(A).

Exemptions: This requirement does not apply (1) to passengers riding in a vehicle either on private property, in parades, or for special events, or (2) to passengers riding “on the bed of a pickup truck.” Title 47, §11-1114(A).

JURISDICTION:
General Reference:

OREGON
Oregon Revised Statutes and Oregon Administrative
Rules (OAR)

Required Use of Safety Belts:²⁷²

Requirements:

- I. Before a person operates a motor vehicle,²⁷³ he/she must be secured in a safety belt. §811.210(1)(a).
- II. A driver cannot operate a motor vehicle unless all passengers <16 years old are secured in safety belts, child safety systems or safety harnesses. §811.210(1)(b)
- III. All motor vehicle passengers ≥16 years old must secure themselves in safety belts. §811.210(1)(c)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Class D Traffic Violation:²⁷⁴ A fine of not more than
\$75.²⁷⁵ §§153.018(1) and (2)(d) 801.557 and 811.210(3)

Effect on Civil Liability:

Evidence of a failure to comply with these requirements may be admitted only to mitigate damages. The mitigation of damages cannot be >5 percent of the damages that would have otherwise been awarded. §18.590(1). However, this restriction does not apply if nonuse of a safety belt was a substantial or contributing cause of the accident which resulted in the personal injuries. §18.590(2)(B) and *Rectenwald v. Snider*, 894 P.2d 1242 (Or. App. 1995)(review denied 907 P.2d 247 (Or. 1995)

²⁷²**Exemptions.** The requirements to use a safety belt, child safety system or safety harness do not apply in the following circumstances: (1) to persons riding in privately owned commercial vehicles which are designed to carry persons for compensation (profit) or to carry property (this exemption does not apply to pickup trucks weighing <8,000 lbs.); (2) to persons riding in vehicles that were not required to be equipped with safety belts or safety harnesses at the time the vehicles were manufactured; (3) to persons who are riding in vehicles that have been specifically exempted from having safety belts or safety harnesses under §815.080; (4) to a person who cannot use either a safety belt, a child safety system, or a safety harness because such use would be impractical or harmful to the person by reason of physical condition, medical problem, or body size; (5) to passengers where all of the available seating positions are already occupied; (6) to persons being transported in the custody of a law enforcement officers; (7) to persons who are delivering newspapers or mail when in the regular course of work; (8) to persons who are administering medical aid to another individual while riding in an ambulance where the use of a safety belt or safety harness would substantially inhibit such aid; (9) to persons who are reading utility meters in the regular course of work; (10) to persons who are employed to operate a vehicle owned by a mass transit district while the vehicle is being used for the transportation of passengers; and (11) to persons who are collecting solid waste or recyclable materials in the regular course of work. §§801.210, 811.215 and 811.220

²⁷³The requirements to use either a safety belt or child safety system applies to motor vehicles that are primarily designed for the transportation of individuals and that have seating for one or more passengers side-by-side with the operator. §811.215(3) and 815.080(1)(a)

²⁷⁴There is also a **Unitary Assessment** of \$35 and a **County Assessment** of between \$5 and \$59. §§137.290(1)(d) and 137.309

²⁷⁵I. Depending upon the number of traffic offenses a person has committed, a person may have to participate in a Driver Improvement Program. Under this program, a person's driving privileges can be restricted and, in some cases, suspended. ORA 735-72-0000 et seq. II. A provisional licensee (a licensee <18 years old) who violates §811.210 is subject to the following sanctions: for a first offense, a letter is issued warning the licensee of the consequences of continued violations. However, if the licensee has a previous traffic offense conviction, which includes a prior violation of §811.210, his/her driving privileges are suspended until a driver improvement program is completed. §809.405(2).

Required Use of Child Safety Restraint Systems:

Requirements:

- I. A driver when transporting a child <4 years old and weighing ≤40 lbs. in a motor vehicle must secure such child in State/Federally approved child safety system. §§811.210(2)(a) and 815.055(1)(b)
- II. A driver when transporting a child ≥4 years old but <6 years old or who weighs between 40 and 60 lbs. in a motor vehicle must secure such child in “a child safety system that elevates the person so that a safety belt or safety harness properly fits²⁷⁶ the person” unless the rear seat of the vehicle is not equipped with a shoulder belt system; in that case the child may be secured in the rear with a lap belt only. §§811.210(2)(b) and (3)
- III. A driver when transporting a child who is ≥6 yrs old and who weighs ≥60 lbs. in a motor vehicle must secure such child in a safety belt or state approved safety harness. §§811.210(2)(c) and 815.055(1)(b)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Class D Traffic Violation: A fine of not more than \$75. §§153.018(1) and (2), 801.550 and 811.210(3)

Effect on Civil Liability:

Evidence of a failure to comply with these requirements may be admitted only to mitigate damages. The mitigation of damages cannot be >5 percent of the damages that would have otherwise been awarded. §18.590(1) However, this restriction does not apply if nonuse of a safety belt was a substantial or contributing cause of the accident which resulted in the personal injuries. §18.590(2)(B)

Required Use of Motorcycle Protective Headgear:²⁷⁷

Requirements:

- I. A person who operates or rides on a motorcycle or a moped must wear a motorcycle helmet. §§814.260(1), 814.269(1), 814.275(1) and 814.280(1)
- II. A person who operates a motor-assisted scooter on a highway or on premises open to the public must wear bicycle-type protective headgear. There is an exemption based on a person’s religious beliefs or practices. §814.534(1) and (2)

Sanctions for Failure to Use:

I. A violation of the requirements in I above: Class D Traffic Violation: A fine of not more than \$75. §§153.018(1) and (2), 801.550, 814.260(4), 814.269(3), 814.275(3) and 814.280(3)

²⁷⁶ “Proper fit” means “the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck.” §811.210(2)(b).

²⁷⁷ The requirement to wear a motorcycle helmet does not apply if (1) the person is riding in an enclosed cab or (2) a person is riding in a vehicle that is designed to travel with three wheels at a speed <15 mph. §§814.260(2), 814.269(2), 814.275(2) , 814.280(2) and 814.290.

II. A violation of the requirement in II. Above: Traffic Violation: a maximum fine of \$25. §814.534(4)

Required Use of Motorcycle Eye Protection Device:

Requirements:

Note: This requirement is indirectly covered by the above requirement to wear a motorcycle helmet.

Sanctions for Failure to Use:

Required Use of Bicycle Protective Headgear:²⁷⁸

Requirements:

I. A person <16 years old who operates or rides on a bicycle must wear protective headgear.²⁷⁹ §814.485(1)
 II. A person cannot operate a bicycle with a passenger <16 years old unless such passenger is wearing protective headgear. §814.486(1)(b)
 III. It is illegal for a parent or legal guardian to allow his/her child <16 years old to operate or ride a bicycle unless such child wears protective headgear. §814.486(1)

Sanctions for Failure to Use:

Traffic Infraction (Violation): A fine of not more than \$25.²⁸⁰ §§801.550, 814.485(3) and 814.486(3)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None²⁸¹

Sanctions for a Violation:

N/A

Exemptions:

N/A

²⁷⁸ A person is exempt from this requirement if the use of bicycle protective headgear would violate a religious belief or practice of the person. §814.487

²⁷⁹ The state is required to adopt standards for bicycle helmets that conform “insofar as is practicable” to the standards for such protective headgear as issued by the American National Standards Institute, Snell or the U.S. Department of Transportation. §815.052.

²⁸⁰ If the offender is ≤11 years old, a citation for a violation of this requirement is issued to the child’s parent or legal guardian. §814.488(1). If the offender is ≥12 but <16 years. old, a citation for a violation of this requirement may be issued to the child or to his/her parent or legal guardian. Note: Citations cannot be issued to both the child and the parent or legal guardian. §814.488(2).

²⁸¹ The safety belt usage and child passenger protection laws may have indirectly established such a prohibition.

JURISDICTION:
General Reference:

PENNSYLVANIA
Pennsylvania Consolidated Statutes

Required Use of Safety Belts:²⁸²

Requirements:

I. When a motor vehicle²⁸³ is in operation, the driver and front seat passengers shall wear a safety belt. Title 75, §4581(a)(2)
II. If a passenger is ≥ 4 but < 18 years old, the motor vehicle operator shall secure such passenger in a safety belt. Title 75, §4581(a)(2)
III. A driver < 18 years old may not operate a motor vehicle in which the number of passengers exceeds the number of available safety belts. Title 75, §4581(a)(3)
Secondary Enforcement: A conviction for a violation of requirements I or II above shall occur only as a secondary action when a driver has been convicted of another offense under the Vehicle Code. Title 75, §4581(a)(2) and (b)

Sanctions for Failure to Use or
Require the Use of Safety Belts:²⁸⁴

Summary Offense: A fine of **\$10**. No other costs can be assessed for a violation of these requirements. In addition, a violation of such requirements shall not result in the assessment of points against a person's driver record and is not considered to be a moving violation. Title 75, §4581(2) (a) and (b). A violation of these requirements cannot be used to increase insurance premiums.²⁸⁵ Title 75, §4581(h).
Note: No points are assigned for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements cannot be admitted into evidence at a civil trial. A jury cannot be instructed that failure to use a safety belt constitutes a violation. Such a violation

²⁸²**Exemptions:** The requirement to wear a safety belt does not apply in the following circumstances: (1) to persons riding in motor vehicles manufactured before July 1, 1966; (2) to persons who for physical or medical reasons cannot wear a safety belt; (3) to rural letter carriers of the U.S. Postal Service while performing official duties; and (4) to drivers who make frequent stops for the purpose of delivering goods or services and where the vehicle is traveling < 15 mph. Title 75, §4581(2)(i), (ii), (iii) and (iv)

²⁸³The term "motor vehicle" means a passenger car, Class I truck (weighing $\leq 5,000$ lbs.), Class II truck (weighing $\geq 5,001$ but $\leq 7,000$ lbs.), or motor home. Title 75, §§1916(a)(1) and 4581(a)(2)

²⁸⁴**Junior Drivers:** "Junior drivers" (licensees 16 or 17 years old) are subject to a suspension of their driving privileges until they are 18 years old or for a period not to exceed 90 days if they are convicted of **any** violation of Title 75. Title 75, §1503(c)(3)

²⁸⁵In addition, under separate statutory provisions, a violation of these requirements shall not be used as evidence by an insurer for any purpose. Title 75, §4585

cannot be considered contributory negligence.²⁸⁶ Title 75, §4581(e)

Required Use of Child Safety Restraint Systems:²⁸⁷

Requirements:

I. Where there is a seating position available with a safety belt, a person who is transporting a child <4 years old in a motor vehicle²⁸⁸ must secure such child in a Federally approved child passenger restraint system. Title 75, §4581(a)(1)

II. Children ≥4 but <8 yrs old must be secured in a safety belt or a booster seat. Title 75, §4581(a)(1.1).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Summary Offense: A fine of not more than **\$100**. Title 75, §4581(b) A violation is not considered a moving violation. Title 75, §4581(b) The fine is waived upon proof of acquisition of a child restraint system. Title 75, §4581(c) A violation of these requirements cannot be used to increase insurance premiums. Title 75, §4581(h) Note: No points are assigned for a violation of this requirement.

Effect on Civil Liability:

A violation of these requirements cannot be admitted into evidence at a civil trial. A jury cannot be instructed that failure to use a child restraint system constitutes a violation. Such a violation cannot be considered contributory negligence. Title 75, §4581(e)

Required Use of Motorcycle Protective Headgear:²⁸⁹

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle (except a motorized pedal-cycle) unless he/she is wearing State-approved protective headgear. Title 75, §3525(a)

Sanctions for Failure to Use:

Summary Offense: A fine of **\$25**. Title 75, §6502(a) Note: No points are assigned for a violation of this requirement.

²⁸⁶Evidence of a violation of these requirements can only be admitted at a criminal trial to prove such violation. Title 75, §4581(F)

²⁸⁷**Exemptions:** The requirement to use a child passenger restraint system does not apply if the use of such a system would be impractical for physical (e.g., size of the child) or medical reasons. Title 75, §4581(g)

²⁸⁸The term "motor vehicle" means a passenger car, Class I truck (weighing ≤5,000 lbs.), Class II truck (weighing ≥5,001 but ≤7,000 lbs.), classic motor vehicle, antique motor vehicle, or motor home. Title 75, §§1916(a)(1) and 4581(a)(1) and (1.1)

²⁸⁹The requirement to wear protective headgear and an eye-protection device does not apply to operators or occupants of a three-wheeled motorcycle equipped with an enclosed cab. Title 75, §3525(d)

Required Use of Motorcycle Eye Protection Device:

Requirements:	No person shall operate or ride a motorcycle or motor-driven cycle (except a motorized pedal-cycle) unless he/she is wearing a State-approved eye-protection device. Title 75, §3525(b)
Sanctions for Failure to Use:	Summary Offense: A fine of \$25 . Title 75, §6502(a) Note: No points are assigned for a violation of this requirement.

Required Use of Bicycle Protective Headgear:²⁹⁰

Requirements:	A person <12 years old shall wear a nationally approved pedalcycle (bicycle) helmet when operating or riding on a pedalcycle (bicycle). ²⁹¹ Title 75, §3510(a)
Sanctions for Failure to Use:	Summary Offense: A fine of not more than \$25 . ²⁹² Title 75, §§3510(d) and 6502(a) Note: A violation of this requirement shall not be used as evidence in any civil action. Such evidence shall not be used to instruct a jury that such conduct constituted a violation of this requirement. Such evidence shall not be considered as contributory negligence. Title 75, §3510(c)

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	I. A person cannot operate either an open-bed pickup truck or open flatbed truck >35 mph if a person is occupying the bed of such truck. Title 75, §3719(a) II. A person cannot operate either an open-bed pickup truck or open flatbed truck at any speed if a person <18 years old is occupying the bed of such truck or trailer. Title 75, §3719(b)(1)
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²⁹⁰ This requirement does not apply if the child <12 years old can produce a statement from the family's church authorities attesting that it is against the tenets of the family's religion to wear a helmet. Title 75, §3510(B.3)

²⁹¹ This requirement also applies if the person <12 years old is riding in a restraining seat attached to the pedalcycle (bicycle) or in a trailer towed by a pedal-cycle (bicycle). Title 75, §3510(a)

²⁹² The parent or legal guardian of the child who violates this requirement shall be jointly and severally liable with such child for the amount of the fine. Title 75, §3510(d)

PENNSYLVANIA

III. A child <4 years old, who is being transported in the cargo area of a motor vehicle, must be secured in a child passenger restraint system. Title 75, §4581(a)(1)

Sanctions for a Violation:

I. It is a Summary Offense to violate the requirements in either I or II above. The sanction for a Summary Offense is a fine of not more than **\$25**. Title 75, §6502(a)

II. For the sanctions related to a violation of requirement III above, see the sanctions for a violation of the requirements for the use of Child Safety Restraint Systems.

Exemptions:

The prohibition contained in requirement II above does not apply to (1) a child of or a child employed by a farmer where the child is being transported either between parts of the farm or for farm work, (2) a child being transported between a hunting camp and a hunting site, or (3) a child who is participating in an authorized parade. Title 75, §3719(b)(2)

JURISDICTION:
General Reference:

RHODE ISLAND
General Laws of Rhode Island

Required Use of Safety Belts:²⁹³

Requirements:

I. When a motor vehicle is in operation, the driver shall wear a safety belt.²⁹⁴ §31-22-22(f) and (g) (1)

II. When a motor vehicle is in operation, the driver shall ensure that all passengers ≥ 13 years old are properly wearing safety belts. §31-22-22(f)(1).

Secondary Enforcement. No motor vehicle may be stopped by a law enforcement officer for a violation of these requirements. §31-22-22(k)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Civil Violation:²⁹⁵ For a violation of either I or II above, there is a fine of **\$75**.²⁹⁶ No record shall be maintained regarding a violation of the requirement in I or II. §§31-22-22(l), 31-27-13(a) and 31-41.1-4(a)

Effect on Civil Liability:

A violation of this requirement is not considered as negligence and the failure to wear a safety belt cannot be admitted into evidence in the trial of any civil action. §31-22-22(h)

²⁹³I. Under separate provisions, safety belts shall be worn by all passengers riding in a child care vehicle. §31-22-11.6 This section does not provide a sanction for its violation. As such, a violation would be a misdemeanor under the general penalty provision of the vehicle code. The sanctions for such a misdemeanor are an imprisonment term of not more than **1 year** and/or a fine of not more than **\$500**. §31-27-13(a) and (c)

II. Under separate statutory provisions, a person, when operating a jitney, bus, private bus, school bus, or trackless trolley coach, shall wear a safety belt. §31-23-41 A person who violates this requirement commits a civil violation and is subject to a fine of not more than **\$500**. §§31-23-41 and 31-27-13(b)

III. Also, (1) a person who is holding either an instructional permit or a "limited provisional license" must wear a safety belt when operating a motor vehicle and (2) any passengers riding with such a person must be restrained by either a safety belt or a child passenger restraint system. I.e., drivers and passengers must comply with the provisions of §31-22-22. §31-10-6

²⁹⁴**Exemptions.** This requirement does not apply in the following circumstances: (1) to persons riding in motor vehicles manufactured before July 1, 1966; (2) to persons who are unable to wear a safety belt for physical or medical reasons; (3) to persons riding in motor vehicles that are not required by Federal law to have safety belts; and (4) to letter carriers of the U.S. Postal Service while performing official duties. §31-22-22(f)(2), (g)(2), (i) and (m)(2).

²⁹⁵**EMS Special Assessment.** In addition to any fine, an offender must be assessed **\$1**. §31-27-18 Note: These funds are deposited into the general State fund and, therefore, do not appear to be obligated for EMS functions.

²⁹⁶This fine is per the fine schedule listed in §31-41.1-4(a).

Required Use of Child Safety Restraint Systems:²⁹⁷

Requirements:

I. A driver, when transporting a child under the age of 7 years, <54 inches in height and <80 lbs. in a motor vehicle, shall secure such child in a Federally approved child passenger restraint system in the back seat. §31-22-22(a)(1). See III under Footnote No. 1.

II. A driver, when transporting a child under the age of 7 years, ≥54 inches in height and > 80 lbs., shall secure such child in the **back seat** of a motor vehicle in a Federally approved safety belt and/or shoulder harness. 31-22-22(a)(1). See III under Footnote No. 1.

IMPORTANT: The requirements I and II above do not apply if (1) the vehicle is not equipped with a back seat or (2) “all back seating positions are being utilized by other children.” §31-22-22(a) (1). Due to apparent legislative oversight, it appears that children who come under either of these two exemptions are not required to be restrained.

III. A driver, when transporting a child between the ages of 7 through 12 shall secure such child in a Federally approved safety belt and/or shoulder harness system. §31-22-22(b) (1)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Civil Violation: A person, who violates the requirement in I or II above shall be issued a citation and is subject to a fine of **\$75**.²⁹⁸ The violation shall be voided upon proof, within 7 days, of purchase of a child restraint system. A violation of the requirement in III above is a Civil Violation and subjects the violator to a fine of **\$50**. §§31-22-22(c) and (d), 31-27-13(a) and 31-41.1-4(a)

Effect on Civil Liability:

A violation of these requirements shall not be considered as contributory or comparative negligence and such a violation is not admissible as evidence in the trial of any civil action. §31-22-22(a) (2) and (h).

²⁹⁷Note: The exemptions listed in Footnote No. 2 do not apply to the provisions of the law related to child passenger protection.

²⁹⁸This sanction is listed in both §31-22-22 and the fine schedule provisions of §31-41.1-4(a).

Required Use of Motorcycle Protective Headgear:

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| Requirements: | <p>I. When operating a motorcycle, motor scooter or a motor driven cycle, a person <21 years old shall wear a State-approved helmet. §31-10.1-4</p> <p>II. When operating a motorcycle, motor scooter or a motor driven cycle, any person (regardless of age) who has not been licensed for more than 1 year to operate such vehicles shall wear a State-approved helmet. §31-10.1-4</p> <p>III. A passenger (regardless of age) riding on a motorcycle, motor scooter or motor-driven cycle must wear a “properly fitting” State-approved helmet. §31-10.1-6</p> |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Sanctions for Failure to Use:	<p>Civil Violation: For a violation of either I, II or III above, there is a fine of \$50.²⁹⁹ §§31-10.1-4, 31-27-13(a) and 31-41.1-4 Note: The law does not appear to assign points for a violation of this requirement.</p>
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Required Use of Motorcycle Eye Protection Device:

Requirements:	<p>When operating a motorcycle, motor scooter or a motor driven cycle, a person (regardless of age) shall wear a State-approved eye protection device. §31-10.1-4</p>
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Sanctions for Failure to Use:	<p>Civil Violation: A fine of \$50 §31-10.1-4, 31-27-13(a) and 31-41.1-4(a)</p>
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Required Use of Bicycle Protective Headgear:³⁰⁰

Requirements:	<p>A person ≤15 years old shall wear a nationally approved helmet³⁰¹ when operating or riding as a passenger on a bicycle “on a public highway, bicycle path, shared use park, park and/or recreational area, school property or on any other public right-of-way.” §31-19-2.1(a). A parent or guardian of any child shall not authorize or knowingly permit such child or ward to violate this requirement. §31-19-2</p>
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²⁹⁹This fine is per the fine schedule listed in §31-41.1-4(a). However, §31-10.1-4 provides for only a fine of **\$35** for a violation of the requirements noted in I and II.

³⁰⁰The bicycle helmet law also provides that persons ≤15 years old who are “using or operating a skateboard, roller skates, scooter or inline skates on a public highway, bicycle path, shared use path, park and/or recreational area, school property or on any other public right-of-way” shall also wear an approved bicycle helmet. §31-19-2.1

³⁰¹An approved bicycle helmet is one that meets the standards for such helmets established by either the Snell Memorial Foundation, the American Society for Testing and Materials (ASTM) or the U.S. Consumer Product Safety Commission (CPSC). §31-19-2.1

Sanctions for Failure to Use:

A violation of this requirement must be adjudicated administratively. §31-19-1. However, the provisions of neither the administrative fine schedule law (§31-41.1-4(a)), §31-19-1 nor §31-19-2.1 provide for a sanction. Furthermore, under §31-27-13(a), such an offense would probably be considered a civil violation for which only a fine sanction can be imposed but again no specific fine sanction is given. It should be noted that, even though no penalty is provided for in §31-41.1-4(a), this law usually provides a \$50 fine sanction for most traffic law violations.

Note: "In no event shall failure to wear a helmet be considered as contributory or comparative negligence, nor shall the failure to wear a helmet be admissible as evidence in the trial of any civil action." §31-19-2.1

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

"No person shall operate an open motor truck or other similar vehicle while carrying or transporting any child under sixteen (16) years of age without securely fastening the child to prevent them from becoming loose or detached in any manner."³⁰² §31-25-10(f)

Sanctions for a Violation:

Civil Violation: First offense: a fine of not more than **\$100**; subsequent offenses: a fine of not more than **\$100-500**. §31-25-10(d)

Exemptions:

N/A

³⁰²In addition, the safety belt usage law, because it covers all vehicle passengers, may indirectly establish such a prohibition.

JURISDICTION:
General Reference:

SOUTH CAROLINA
Code of Laws of South Carolina Annotated

Required Use of Safety Belts:³⁰³

Requirements:

I. When operating a motor vehicle, the driver and every occupant shall wear a safety belt.

§56-5-6520

II. When operating a motor vehicle,³⁰⁴ the driver shall require that every passenger >6 but <17 years old wear a safety belt or child restraint device.³⁰⁵ §56-5-6520

Limited Secondary Enforcement. A law enforcement officer may not stop a driver for a violation of these requirements in the absence of another violation of the motor vehicle laws.³⁰⁶ However, an officer may issue a citation based on (1) probable cause that a violation has occurred where the officer had a “clear and unobstructed” view of drivers or passengers who are ≤17 years old, or (2) on stops made at checkpoints established for the purpose of determining proper driver's licenses or vehicle registrations. §56-5-6540(B)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A Violation Does Not Constitute a Criminal Offense: a fine of not more than **\$25**. There are no court costs, assessments or surcharges for this offense. In addition, a person cannot be

³⁰³**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) to persons who cannot use a safety belt because of physical or medical reasons; (2) to medical or rescue personnel attending to injured or sick individuals in an emergency vehicle; (3) to persons riding in school, church or daycare buses; (4) to persons riding in public transportation vehicles except taxis; (5) to persons riding in vehicles in a parade; (6) to United States mail carriers; (7) to persons where a safety belt is not available because all seating positions with safety belts are already occupied; (8) to drivers who make frequent stops for pick-up or delivery purposes; (9) to persons occupying the rear seat of a motor vehicle unless the vehicle is equipped with a shoulder harness in addition to the lap belt; (10) to persons under 6 who must be in a child restraint system; and (11) to persons in a vehicle not originally equipped with safety belts. §56-5-6530

³⁰⁴ For purposes of the safety belt use law, the term "motor vehicle" is defined as “a passenger car, truck, van, or recreational vehicle required to be equipped with safety belts by the Federal Motor Vehicle Motor Vehicle Safety Standard No. 208 (49 CFR 571.208), manufactured after July 1966.” §56-5-6510. Under separate provisions of law, “passenger car” is defined as “every motor vehicle except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons....” §56-5-361

³⁰⁵ However, a driver is not responsible for an occupant 17 years of age or younger who has a driver's license, special restricted license, or beginner's permit and who is not wearing a seat belt; such occupant is in violation of the article... §56-5-6520

³⁰⁶ If the stop and safety belt law violation are based on another violation of the law, the safety belt law violation citation must also cite “the violation that initially caused the officer to effect the enforcement stop.” §56-5-65420(C)

fined more than **\$20** for any one incident where more than one violation occurred. A violation of these requirements cannot be included in the State's motor vehicle or criminal records. §56-5-6540(A). No points may be assessed against a person's driving record for a violation of these requirements. §56-5-6550

Effect on Civil Liability:

A violation of these requirements does not constitute negligence per se or contributory negligence and is not admissible as evidence in a civil action. §56-5-6540(E)

Required Use of Child Safety Restraint Systems:³⁰⁷

Requirements:

Under §56-5-6410, a person when transporting children ≤5 years old in a motor vehicle³⁰⁸ shall secure such children as follows:

- (1) Children <1 year old or weighing <20 lbs. must be secured in rear-facing child restraint systems that meet Federal standards;
- (2) Children ≥1 year old but <6 and weighing ≥40 but <80 lbs. must be secured in forward-facing child safety seats that meet Federal standards;
- (3) Children ≥1 year old but <6 and weighing ≥40 but <80 lbs. must be secured in belt-positioning booster seats;³⁰⁹
- (4) Children ≥1 year old but <6 and weighing >80 lbs. must be secured in adult safety belts;³¹⁰ and
- (5) Children <6 years old cannot occupy the front seat of a motor vehicle unless the motor vehicle does not have rear passenger

³⁰⁷ **Exemptions.** These requirements do not apply in the following circumstances: (1) to children when all of the available seating positions with restraining devices are already occupied, but priority must be given to children under 6 according to their ages (§65-5-6420); (2) to children who are being fed or who have physical impairment or medical problems that makes use of a child restraint system impractical (§65-5-6430); (3) to children riding in taxicabs, emergency vehicles when in official operation or vehicles operated by churches or daycare centers (§65-5-6440); and (4) to children riding in a school bus, or public-commercial transportation vehicles. (§65-5-6440)

³⁰⁸ The term "motor vehicle" refers to a passenger car, pickup truck, van, or recreational vehicle. §56-5-6410. The requirements under the child passenger restraint law apply only to motor vehicles that are equipped with safety belts. §56-5-6445. Under separate provisions of the law, "passenger car" is defined as "every motor vehicle except motorcycles and motor-driven cycles, designed for carrying 10 passengers or less and used the transportation of persons...." §56-5-361

³⁰⁹ The "belt-positioning booster seat must be used with both lap and shoulder belts. A booster seat must not be used with a lap belt alone." §56-5-6410(3)

³¹⁰ The law provides that "if a child less than six years of age can sit with his back straight against the vehicle seat back cushion, with his knees bent over the vehicle's seat edge without slouching, the child may be seated in the regular back seat and secured by an adult safety belt." §56-5-6410(4)

seats, or all of the rear passenger seats are occupied by other children who are <6 years old.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: a fine of not more than **\$25**. The fine is waived upon proof of acquisition, purchase or rental of a child restraint system. §§56-5-730, 56-5-6190 and 56-5-6450. Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements shall not constitute negligence per se or contributory negligence and shall not be admissible as evidence in any civil action. §56-5-6460

Required Use of Motorcycle Protective Headgear:³¹¹

Requirements:

When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person <21 years old shall wear a State-approved helmet. §56-5-3660

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **30 days** and/or a fine of not more than **\$100**. §56-5-3700 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person <21 years old shall wear State-approved goggles or face shield. §56-5-3670 This requirement does not apply if the vehicle is equipped with a windscreen. §56-5-3680

Sanctions for Failure to Use:

Misdemeanor: An imprisonment term of not more than **30 days** and/or a fine of not more than **\$100**. §56-5-3700. Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

N/A

Required Use of Bicycle Eye Protection Device:

³¹¹ For persons ≥21 years old, the failure to wear a helmet is not considered contributory negligence in a civil action. *Mayes v. Paxton*, 437 S.E. 2d 66 (S.C. 1993)

SOUTH CAROLINA

Requirements: **None**

Sanctions for Failure to Use: N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

Sanctions for a Violation: N/A

Exemptions: N/A

JURISDICTION:
General Reference:

SOUTH DAKOTA
South Dakota Codified Laws

Required Use of Safety Belts:³¹²

Requirements:

- I. When a passenger vehicle³¹³ is in operation, the driver and all front-seat passengers shall wear safety seat belts. §32-38-1
 - II. The driver of a passenger vehicle shall secure front-seat passengers ≥ 5 but < 18 years old in safety belts. §32-38-1
 - III. When a passenger vehicle is in operation, a driver who is ≥ 14 but < 18 years old, shall wear a properly adjusted and fastened safety belt. §32-37-1.2
 - IV. When a passenger vehicle³¹⁴ is in operation the driver shall assure that all passengers ≥ 5 but < 18 years old are wearing properly adjusted and fastened safety belts. §32-37-1.1
 - V. When a passenger vehicle is in operation, all passengers ≥ 5 but < 18 years old shall wear properly adjusted and fastened safety belts. §32-37-1.3
- Note: The provisions of §§32-38-1, 32-37-1.1, 32-37-1.2, and 32-37-1.3 overlap.

Secondary Enforcement. Enforcement of requirements I and II by law enforcement officers shall be accomplished as a secondary action. §32-38-5

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Offense: A "judgment" of **\$20**. §§23-1A-22 and 32-38-5 A violation of requirements I and II is not a moving violation. §32-38-1. Note: The law does not appear to assign points for violations of the requirements in III, IV and V.

Effect on Civil Liability:

A violation of these requirements does not constitute contributory negligence, comparative negligence or assumption of the risk. And, except for criminal litigation for violations of these requirements, evidence of such violations may not be introduced as evidence in any civil litigation on the issue of injuries or on the issue of mitigation of damages. §32-38-4

³¹²**Exemptions.** The requirement to wear a safety seat belt does not apply in the following circumstances: (1) to persons riding in a passenger vehicle manufactured before September 1, 1973; (2) to persons who for medical reasons are unable to wear a safety belt; (3) to persons who are riding in a vehicle that does not have to be equipped with safety belts under Federal law; (4) to rural carriers of the U.S. Postal Service while on official duties; and (5) to persons delivering newspapers or periodicals on an assigned home delivery route. §32-38-3

³¹³The term "passenger vehicle" means any self-propelled vehicle intended primarily for highway use and includes passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks, and pickup trucks. This term does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses and school buses. §32-38-2

³¹⁴Note: The term "passenger vehicle" is not defined in Chapter 32-37 (the child passenger protection law).

Required Use of Child Safety Restraint Systems:³¹⁴

Requirements:	A driver when transporting a child <5 years old in a passenger vehicle ³¹⁵ shall secure such child in a Federally approved child passenger restraint system. However, children <5 years old and weighing ≥40 lbs. may be secured in a safety belt instead of a child restraint system. §32-37-1
Sanctions for Failure to Require the Use of Child Restraint Systems:	Petty Offense: A "judgment" of \$20 . §§23-1A-22 and 32-37-1. Note: The law does not appear to assign points for a violation of these requirements.
Effect on Civil Liability:	A violation of these requirements is not considered as contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action. §32-37-4

Required Use of Motorcycle Protective Headgear:³¹⁶

Requirements:	I. A person <18 years old may not operate or ride on a motorcycle unless they are wearing a Federally approved protective helmet. §32-20-4 II. A motorcycle operator (regardless of age) shall not allow a passenger <18 years old to ride a motorcycle unless such passenger is wearing a Federally approved protective helmet. §32-20-4 Note: These requirements do not apply to persons who are riding within an enclosed cab. §32-20-4.2
Sanctions for Failure to Use:	Class 2 Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$200 . §§22-6-2(2) and 32-20-4 Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:	A person shall not operate a motorcycle unless either (1) he/she is wearing an eye protection device or (2) such vehicle is equipped with a windscreen. §32-20-4.1 Note: This requirement does not apply to persons who are riding within an enclosed cab. §32-20-4.2
Sanctions for Failure to Use:	Petty Offense: A "judgment" of \$20 . §§23-1A-22 and 32-20-4.1 Note: The law does not appear to assign points for a violation of this requirement.

³¹⁴ **Exemptions.** This requirement does not apply to children who are riding in passenger cars manufactured before 1966 that have not been equipped with seat belts. §32-37-2

³¹⁵ Note: The term "passenger vehicle" is not defined in the child passenger protection law (Ch. 32-37).

³¹⁶ Failure to wear a helmet may be introduced into evidence at a civil action in order to mitigate damages. *Robbins v. Buntrock*, 550 N.W. 2d 422 (S.D. 1996)

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use: N/A

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

Sanctions for a Violation: N/A

Exemptions: N/A

JURISDICTION:
General Reference:

TENNESSEE

Tennessee Code Annotated and Rules and Regulations
of the State of Tennessee (RRST)

Required Use of Safety Belts:³¹⁷

Requirements:

I. A person shall not drive a passenger motor vehicle³¹⁸ unless the driver and all front-seat passengers ≥ 4 years old are restrained by safety belts. §55-9-603(a)(1), (a)(2), (b)(1). Important, See Required Use of Child Safety Restraint Systems below.
II. Drivers 16 or 17 years old shall wear safety belts when operating a motor vehicle in a "forward motion." §55-9-603(i)(1)
III. Motor vehicle passengers between the ages of 16 and 18 years old shall wear safety belts when occupying any seating position. §55-9-603(i)(2)
Note: For passenger ≥ 4 through 15 years old, see Required Use of Child Safety Restraint Systems below.
Secondary Enforcement. For the requirement in I, no citation or warrant for an arrest shall be issued for a violation of this requirement unless the person who has been stopped by a law enforcement officer and has been issued a citation or arrest warrant for a separate violation of the law.³¹⁹ §55-9-603(f)(1) Note: The law specifically provides that a law enforcement officer may issue a citation to but cannot arrest a person for an observed violation. §55-9-603(f)(2) and (i)(3)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §40-35-111(e)(3) and 55-9-603(d)(1)
Alternative. In lieu of a court appearance, an offender may, for a first offense, pay a fine of **\$10** and, for a second or subsequent offense, pay a fine of **\$20**. §55-9-603(d)(2). For a violation of II above, an offender may pay a fine of \$20 in lieu of a court appearance. §55-9-603(d)(3)(A).
Important. A driver cannot be fined for a violation of this requirement for the failure of a passenger > 16 years old to wear a safety belt. §55-9-606

³¹⁷**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) to persons who cannot wear a safety belt because of a physical disability; (2) to rural letter carriers of the U.S. Postal Service while performing official duties; (3) to automobile dealership salespersons or mechanics who test drive 50 or more vehicles a day and where test drives are within one mile of the dealership; (4) to utility workers while performing official duties; (5) to water, gas and electric meter readers in the course of their employment; and (6) to persons who are in the process of delivering newspapers. §55-9-603(h)

³¹⁸The term "passenger motor vehicle" means a vehicle having a gross vehicle weight $< 10,000$ lbs. and which is not used as a public livery conveyance for passengers. In addition, such term does not include a motor vehicle that does not have to be equipped with safety belts under Federal law. §55-9-603(c)

³¹⁹A law enforcement officer observing a violation of this requirement shall only issue a citation for such violation. A law enforcement officer cannot take a person into custody solely for such a violation. §55-9-603(f)(2)

Required Use of Safety Belts: (continued):

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Note: Neither court costs nor a litigation tax shall be imposed. §55-9-603(e). In addition, no points can be assigned to an offender's driving record for a violation of this requirement. §55-9-603(g)

A person holding an "intermediate driver license who commits a second offense, is ineligible to apply for unrestricted driving privileges for an additional 90 days from the date such person would have been eligible for such privileges." §55-50-311(f)(2)(A)

Effect on Civil Liability:

Generally, a violation of this requirement is not admissible into evidence in a civil action except in cases of product liability. §55-9-604 and *Cheatham v. Thurston*, 654 F. Supp. 216 (S.D. Ohio 1986). This case applied Tennessee law §55-9-214 which was transferred to §55-9-604.

Required Use of Child Safety Restraint Systems:³²⁰

Effective July 1, 2004

Section 55-9-602

(a)(1) Any person transporting any child under 1 year of age or weighing 20 pounds or less in a motor vehicle upon a road, street, or highway of Tennessee, is responsible for the protection of the child and properly using a child passenger restraint system in a rear-facing position, meeting Federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(2) Any person transporting any child 1 through 3 years of age weighing greater than 20 pounds in a motor vehicle upon a road, street or highway of Tennessee, is responsible for the protection of the child and properly using a child passenger restraint system in a forward-facing position, meeting Federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(3) Any person transporting any child 4 through 8 years of age and measuring less than 5 feet in height in a passenger motor vehicle upon a road, street, or

³²⁰**Exemptions.** Comment: Tennessee law provides that before a motor vehicle can be sold in the State, it must be equipped with a safety belt. However, motor vehicles manufactured prior to the 1964 model year, public or livery conveyance passenger motor vehicles weighing <10,000 lbs., and any motor vehicle that is not required by Federal law to be equipped with safety belts are exempt from this requirement. §55-9-601 Although the law is not specific, there would appear to be an indirect exemption from the use of child passenger protection systems in motor vehicles that are not required to have safety belts by reason of the fact that safety belts are needed in order to secure child passenger protection systems in place. The law does not require that motor vehicles be retrofitted with safety belts.

Required Use of Child Safety Restraint Systems:
(continued)

highway of Tennessee is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting Federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(4) (A) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this subsection, a specially modified, professionally manufactured restraint system meeting the intent of this subsection shall be in use; provided that the provisions of this subdivision shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(B) A person shall not be charged with a violation of this subsection if such person presents a copy of the physician's prescription in compliance with the provisions of this subdivision to the arresting officer at the time of the alleged violation.

(C) A person charged with a violation of this section may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the charge for violating the provisions of this section may be dismissed.

Section 55-9-602(g)(1)

Any person transporting any child 9 through 12 years of age, or any child through 12 years of age measuring 5 feet or more in height, in a passenger motor vehicle upon a road, street, or highway of Tennessee, is responsible for the protection of the child and properly using a safety belt system meeting Federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(B) Any person transporting any child 13 through 15 years of age in a passenger motor vehicle upon a road, street, or highway of Tennessee is responsible

Required Use of Child Safety Restraint Systems:
(continued)

for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

Sanctions for Lack of
Use of Child Restraint Systems:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) and 55-9-602(c)(1)
Sanction alternatives: In addition to or in lieu of the above sanctions, an offender may be required to attend a class on the hazards of not transporting children properly. §55-9-602(c)(2)
In lieu of a court appearance, an offender may pay a fine of \$50. Also, no court costs or litigation tax may be assessed against an offender. §55-9-602(g)
Note: The statute does not assign points for a violation of these requirements.

Effect on Civil Liability:

§55-9-602 (i) A person who has successfully met the minimum required training standards for installation of child restraint devices established by the national highway traffic safety administration of the United States Department of Transportation, who in good faith installs or inspects the installation of a child restraint device shall not be liable for any damages resulting from any act or omission related to such installation or inspection unless such act or omission was the result of the person's gross negligence or willful misconduct.

Section 55-9-602 (new subsection, number to be determined)

- (1) The failure to use a child restraint system shall not be admissible into evidence in a civil action; provided, that evidence of a failure to use a child restraint system, as required by this section, may be admitted in a civil action as to the causal relationship between non-compliance and the injuries alleged, if the following conditions have been satisfied:
 - (A) The plaintiff has filed a products liability claim;
 - (B) The defendant alleging non-compliance with this section shall raise this defense in its answer or timely amendment thereto in accordance with the rules of civil procedure; and
 - (C) Each defendant seeking to offer evidence alleging non-compliance with this section has the burden of proving non-compliance with this section, that compliance with this section would have reduced injuries and the extent of the reduction of such injuries.
- (2) Upon request of any party, the trial judge shall hold a hearing out of the presence of the jury as to the

Required Use of Child Safety Restraint Systems:

(continued)

admissibility of such evidence in accordance with the provisions of this subsection and the Tennessee Rules of Evidence.

§55-9-602 (j)

Notwithstanding any provisions of this part to the contrary, for any child transported by child care agencies licensed by the Department of Human Services pursuant to Sections 71-3-501 et seq. and transported pursuant to the rules and regulations of such department, such rules and regulations shall remain effective until the department amends such rules and regulations; provided that the department shall either promulgate rules consistent with the provisions of this part or promulgate rules exceeding, based on applicable Federal regulations or standards, the provisions of this part no later than January 1, 2007.

Air Bags

Any person who knowingly installs or reinstalls any object in lieu of an air bag that was designed in accordance with federal safety regulations for the make, model and year of the vehicle, as part of the vehicle inflatable restraint system, shall be guilty of a Class A misdemeanor.

Required Use of Motorcycle Protective Headgear:

Requirements:

A person who operates or rides as a passenger on a motorcycle or motorized bicycle must wear a State-approved crash helmet.³²¹ §55-9-302(a.) This requirement does not apply to persons riding in an enclosed cab or in a fully enclosed motorcycle. §55-9-302(b)

Sanctions for Failure to Use:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) and 55-9-306

Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person who operates or rides as a passenger on a motor-driven cycle or motorized bicycle shall wear safety goggles, face shields, or glasses containing impact-resistant lenses. This requirement does not apply if the vehicle is equipped with a windshield. §55-9-304

³²¹ A violation of this requirement will not be a bar to the recovery of damages based on contributory negligence grounds provided that such violation did not contribute to the cause of the accident. *Brown v. Smith*, 604 S.W.2d 56 (Tenn. App. 1980)

Sanctions for Failure to Use: Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §40-35-111(e)(3) and 55-9-306
Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:³²²

Requirements: I. A person <16 years old cannot operate or be a passenger on a bicycle unless they are wearing a protective cycle helmet. §55-52-105(1)
 II. It is an offense for either a parent or legal guardian to knowingly permit his/her child to violate the above requirement. §55-52-105(3)

Sanctions for Failure to Use: I. Violation: An adult who violates the above requirement is guilty of a violation and is liable for a fine \$2 plus court costs. §55-52-106(a)
 II. For a first violation, the law provides that only a warning citation may be issued. For either a second or subsequent violation, a citation may be issued but no arrest can be made. §55-52-106
 III. Note: A violation of this requirement is not admissible as evidence in any civil action. §55-52-106(c)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A
Prohibition Against Riding in Unsecured Portion of Vehicle:³²³

Requirements: I. “[O]n the streets of any municipality, roads of any county, or the highways of this state,” a person shall not transport a child <6 years old in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style. §55-8-189(a)
 II. On “any interstate defense highway or state highway,” a person shall not transport a child ≥6 but <12 years old in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style. §55-8-189(b)(1)

³²² A person either who weighs <40 lbs. or who is <40 inches tall must be secured in a restraining seat when being transported on a bicycle. §55-52-105(2). Note: The sanctions for a violation of this requirement are the same as for a failure to use a bicycle safety helmet.

³²³ “The General Assembly hereby strongly urges the Department of Safety to take all necessary and prudent measures to alert persons of the dangers of minor children riding in the back of pickup trucks. The Department of Safety is urged to use public service announcements, advertising, public meetings and any other means available to inform the public of the risks to minors from riding in the back of pickup trucks.” §1 of Public Chapter No. 888 (1998)

TENNESSEE

Note: A city or county may establish this same prohibition on its roads or highways. §55-8-189(b)(2)

Sanctions for a Violation:

Class C Misdemeanor: An imprisonment term of not more than 30 days and/or a fine of not more than \$50. §§40-35-111(e)(3) and 55-8-189(b) Note: The law is not specific as to whether points can be assigned for a violation of this requirement. However, since this offense is codified under the rules of the road provisions of the vehicle code, an offender may be subject to a three-point assessment against his/her driving record under the miscellaneous point assessment provisions of the point system regulations. RRST Ch. 1340-1-40.03

Exemptions:

I. This requirement does not apply if the child is being transported in the bed of such a vehicle as part of an organized parade, procession or other ceremonial event and when the vehicle is not traveling >20 mph. §55-8-189(c)

II. This requirement does not apply if the child is being transported in the bed of such vehicle when it “is involved in agricultural activities.” §55-8-189(d)

JURISDICTION:
General Reference:

TEXAS
Vernon's Texas Transportation Code (Tran.
Code)

Required Use of Safety Belts:³²⁴

Requirements:

I. When a passenger vehicle³²⁵ is being operated, anyone ≥ 15 years old, who is riding in the front seat and who is occupying a seat that is equipped with a safety belt, must wear such belt. Tran. Code §545.413(a)
II. A person cannot operate a passenger vehicle or light truck equipped with safety belts unless the all of the passengers who are ≥ 5 but < 17 years old or who are < 5 and at least 36 inches in height are secured by such belts. However, this requirement only applies if such passengers are occupying a seat that is equipped with a safety belt. Tran. Code §545.413(b)

Sanctions for Failure to Use or
Require the Use of Safety Belts:³²⁶

Misdemeanor: I. A violation of the requirements of I above, a fine of not less than **\$25** nor more than **\$50**.³²⁷ Tran. Code §545.413(d)
II. A violation of the requirements in II above, a fine of not less than **\$100** or more than **\$200**. However, the court may defer proceedings and require an offender to complete a special course concerning child passenger safety. This course

³²⁴**Exemptions.** The requirements to use a safety belt do not apply in the following circumstances: (1) to persons who are unable to use a safety belt for physical or medical reasons; (2) to persons employed by the U.S. Postal Service while performing official duties; (3) to persons who are in the process of delivering newspapers from a vehicle; (4) to persons employed by either a public or a private utility and who are engaged in reading meters or performing other duties that require that they frequently enter and exit a vehicle; and (5) to persons who are operating commercial vehicles that are registered as farm vehicles and that weigh $< 48,000$ lbs. Tran. Code §545.413(e) **Constitutionality.** I. The State's previous safety belt use law was held to be constitutional. *Richards v. State*, 743 S.W.2d 747 (Tex. App.-Houston (1 Dist.) 1978) (review denied 757 S.W.2d 723 (Tex. Crim. App. 1988) (appeal dismissed 489 U.S. 1002, 103 L.Ed.2d 170, 109 S.Ct. 1105 (1989)). II. The U.S. Supreme Court has held that it is constitutional for a law enforcement officer to make an arrest without a warrant for a fine-only minor criminal offense such as a violation of Texas' safety belt use law which is a misdemeanor offense with only a fine sanction. *Atwater v. City of Lago Vista*, 532 U.S. 318, 149 L.Ed.2d 549, 121 S. Ct. 1536 (2001) (rehearing denied 533 U.S. 924, 150 L.Ed.2d 709, 121 S. Ct. 2540 (2001)).

³²⁵ "Passenger vehicle" means a passenger car, light truck, sport utility vehicle, truck, or truck tractor. Tran. Code §545.412(f) and 545.413(h)

³²⁶**Deferred Disposition.** Persons charged with traffic offenses may be allowed to participate in a deferred disposition program. Under this program, an offender must plead guilty or no contest to the offense and complete a "driving safety course." The court defers imposition of judgment for 180 days and dismisses the charge when the course has been completed. Code of Criminal Procedure, Art. 45.0511

³²⁷The law is not specific as to whether there is a licensing sanction for this offense. However, it may be possible for the State to either suspend or revoke a person's driving privileges based on habitual violations of the traffic law which could include this offense. Tran. Code §521.294

is in lieu of requiring the offender to complete a “driving safety course.” Tran. Code §545.413(d) and (i).

Effect on Civil Liability:

Evidence of nonuse of a safety belt is not admissible in a civil trial. Tran. Code §545.413(g)

Required Use of Child Safety Restraint Systems:³²⁸

Requirements:

A person cannot operate a passenger vehicle, when transporting a child <4 years old or <36 inches in height, unless such child is secured either in a Federally approved child passenger safety seat system or by a safety belt. Tran. Code §545.412(a)(1) and (f)

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of not less than **\$100** nor more than **\$200**. However, the court may defer proceedings and require an offender to complete a special course concerning child passenger safety. This course is in lieu of requiring the offender to complete a driving safety course. Tran. Code §545.412(b) and (g).

Effect on Civil Liability:

Evidence of nonuse of a child passenger safety seat system is not admissible in a civil trial. Tran. Code §545.412(d)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person who operates or rides as a passenger on a motorcycle³²⁹ shall wear State-approved protective headgear. Tran. Code §661.003(a) and (b)

Exception. A person who is ≥21 years old may apply for an "exception" from this requirement provided he/she (1) has successfully completed a motorcycle operator training and safety course or (2) is covered by a health insurance plan that provides the person with at least \$10,000 in medical benefits that will cover the

³²⁸**Exemptions.** These requirements do not apply in the following circumstances: (1) to children who are being transported in emergency or law enforcement vehicles; (2) to children being transported in passenger for hire vehicles; and (3) to children being transported in a vehicle in which all seating position equipped with child passenger safety seat systems or safety belts are occupied. Tran. Code §545.412(c) and (e)

³²⁹The term “motorcycle” means a self-propelled motor vehicle with not more than three wheels and which may have a saddle for rider use. The term does not include a tractor or three-wheeled vehicle that is equipped with a cab, seat and safety belt and is designed to contain the cab operator. Tran. Code §661.001(1)

costs of any injury sustained while operating or riding on a motorcycle.³³⁰ Tran. Code §661.003(c)

Sanctions for Failure to Use:

Misdemeanor: A fine of not less than **\$10** nor more than **\$50**. Tran. Code §661.003(h)

Note: In a Federal case, the court held that there may be a common law duty under Texas law to wear protective headgear or eye protection. *Kennon v. Slipstreamer Inc.*, 794 F.2d 1067 (5th Cir. 1986)

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use: N/A

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: When operating either an open-bed pickup truck or an open flatbed truck or when drawing an open flatbed trailer, a driver shall not transport a passenger <18 years old in the bed of such truck or trailer. Tran. Code §545.414(a)

Sanctions for a Violation: Misdemeanor: A fine of not less than **\$25** nor more than **\$200**. Tran. Code §545.414(b)

³³⁰Motorcycle owners who qualify for this exception may apply to the State Department of Public Health for a special license plate sticker that indicates they satisfy the requirements for such an exception. In addition, the law presumes that either operators or passengers who are riding on motorcycles displaying such stickers have complied with these requirements. Tran. Code §661.003(d) and (g)

Exemptions:

This requirement does not apply if the person was either (1) operating such vehicle in a parade, emergency, or authorized hayride, (2) operating a vehicle on a beach, (3) driving such vehicle on a farm-to-market road, ranch-to-market road, or county road outside of municipality, or (4) operating a vehicle that is the only vehicle owned or operated by the members of a household.³³¹ Tran. Code §545.414(c)

³³¹ “Household” is defined to mean “a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.” Family Code §71.005 and Tran. Code §545.414(e).

JURISDICTION:
General Reference:

UTAH
Utah Code Annotated

Required Use of Safety Belts:³³²

Requirements:

I. When a motor vehicle³³³ is in operation, the driver shall wear a safety belt. §41-6-182(1)(a)
II. When a motor vehicle is in operation, the driver shall secure all passengers ≥ 5 but < 16 years old in either an appropriate child restraint device³³⁴ or safety belt. §41-6-182(1)(c) See Required Use of Child Safety Restraint Systems below.
III. When a motor vehicle is in operation, a passenger ≥ 16 years old shall wear a safety belt. §41-6-182(2)
Secondary Enforcement. Law enforcement officers shall only enforce requirements I and III above as a secondary action when either the driver or passenger ≥ 19 years old has been detained for a suspected violation of some other provision of the motor vehicle laws or for another offense. §41-6-182(5)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Infraction: A fine of not more than **\$45**. §41-6-185(1)(a) Note: The fine may be reduced to **\$15** if the offender completes a two-hour course on the benefits of using safety belts. §41-6-185(1)(b) No points may be assessed against any person for a violation of these requirements. §41-6-185(2)

Effect on Civil Liability:

Failure to wear a safety belt does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. §41-6-186

Required Use of Child Safety Restraint Systems:

Requirements:

When a motor vehicle is in operation, the driver shall secure all passengers < 5 years old in a child restraint device. §41-6-182(1)(b)

³³²**Exemptions.** This requirement does not apply in the following circumstances: (1) to persons driving or riding in motor vehicles manufactured before July 1, 1966; (2) to persons who for physical or medical reasons are unable to wear a safety belt; (3) to persons riding in either a motor vehicle or a seating position within a motor vehicle that is not required to be equipped with a safety belt system under Federal law; and (4) to persons where all of the seating positions are occupied by other passengers. §41-6-183

³³³The term "motor vehicle" "means a self-propelled vehicle intended primarily for use and operation on the highways." The term does not include vehicles that are not equipped with safety belts by the manufacturer. §§41-1a-102(33) and 41-6-181.5(2)

³³⁴"Child Restraint Device" means a child restraint device approved by the Commissioner of the Department of Public Safety. §41-6-181.5(1). Note: This could include the approval of booster seats for young children as well as child restraint devices for infants.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Infraction: A fine of not more than **\$45**. §41-6-185(1)(a) Note: The fine may be reduced to **\$15** if the offender completes a two-hour course on the benefits of using a child restraint device and shows proof of acquisition of a child restraint device. §41-6-185(1)(b) No points may be assessed against any person for a violation of these requirements. §41-6-185(2)

Effect on Civil Liability:

Failure to use a child restraint device does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. §41-6-186

Required Use of Motorcycle Protective Headgear:

Requirements:

I. Persons <18 years old may not operate or ride on motorcycles or motor-driven cycles on a highway unless they wear State-approved protective headgear. §41-6-107.8(1). This requirement does not apply if the operator or rider is within an enclosed cab. §41-6-107.8(2)
II. For off-highway vehicles, a person <18 years old³³⁵ who is operating or riding on either a motorcycle snowmobile, or a Type I all-terrain vehicle shall wear a protective headgear.³³⁶ §41-22-10.8(1)

Sanctions for Failure to Use:

I. A violation of I above is an infraction with a fine of not more than **\$750**. §§41-6-12(2), 76-3-205 and 76-3-301(1)(e)
II. A violation of II above is an infraction with a fine sanction of not more than **\$50**. §41-22-10.8(4)
Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

N/A

³³⁵The requirement to wear protective headgear also applies to operators or riders regardless of age who are participating in competitive events on lands or highways designated as open for off-highway vehicle use. §41-22-10.8(1)(a)

³³⁶The requirement to wear protective headgear does not apply to operators or passengers of off-highway implements of husbandry when operated according to §41-22-5.5(3) and (4). §41-22-10.8(3)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:³³⁷

Requirements: I. No person shall ride upon any portion of any vehicle that is not designed or intended for passenger use. §41-6-108
 II. No driver shall knowingly allow a person to ride upon any portion of any vehicle that is not designed or intended for passenger use. §41-6-108

Sanctions for a Violation: Infraction: A fine of not more than **\$750**. §§41-6-12(2), 76-3-205 and 76-3-301(1)(e) Note: The law does not appear to assign points for a violation of these requirements.

Exemptions: This prohibition does not apply either (1) if the vehicle is not being driven upon a highway, (2) if employees riding upon a vehicle are engaged in the necessary discharge of their duties, or (3) if persons are riding in a vehicle space that is intended for any load. §41-6-108

³³⁷In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

VIRGINIA
Code of Virginia Annotated and Virginia Administrative
Code (VAC)

Required Use of Safety Belts:³³⁸

Requirements:

When a motor vehicle³³⁹ is in motion, each person ≥16 years old, who is occupying the front seat, shall wear a safety belt.³⁴⁰ §46.2-1094(A)

Secondary Enforcement.

No citation for a violation of this requirement shall be issued unless a law enforcement officer has cause to stop or arrest the driver for a violation of the State's law or a local ordinance related to motor vehicles. §46.2-1094(F)
Note: City governments with a population >66,000 but ≤67,000, have the authority to enact ordinances requiring safety belt usage which are not inconsistent with State law. The sanction for a violation of such an ordinance cannot exceed \$25. §46.2-1094(G)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

A civil penalty of \$50. Notwithstanding the foregoing, the court may waive or suspend the imposition of the penalty if it finds that the failure of the defendant to comply with the section was due to his financial inability to acquire a child restraint system. §46.2-1095
No assignment of demerit points shall be made under Article 19 (Section 46.2-489 et seq.) of Chapter 3 of this title and no court costs shall be assessed for violation of this section. §46.2-1098.

Effect on Civil Liability:

A violation of these requirements (1) shall not constitute negligence, (2) shall not be considered in the mitigation of damages of whatever nature or (3) shall neither be

Exemptions. The requirement to use a safety belt does not apply in the following circumstances: (1) to persons who have a physical or medical condition that makes wearing a safety belt impractical; (2) to law enforcement officers who are transporting a person in custody where the wearing of a safety belt would be impractical; (3) to rural mail carriers of the U.S. Postal Service while performing official duties; (4) to persons performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; (5) to taxicab drivers; (6) to persons required to make frequent stops while operating commercial or public vehicles; (7) to utility meter readers; and (8) to law enforcement personnel who are enforcing motor vehicle parking laws. §46.2-1094(B)

³³⁹Generally, the safety belt use requirement applies to persons occupying "passenger cars" that are equipped with or required by law to be equipped with safety belts. §§46.2-1092 and 46.2-1094(A) and (B) The term "passenger car" means every motor vehicle other than a motorcycle designed and used primarily for the transporting of no more than 10 persons including the driver. §46.2-100

³⁴⁰**School Bus.** A person must wear a safety belt when operating a school bus. A violation of this requirement is a Class 3 Misdemeanor. §46.2-1091. The sanction for a Class 3 Misdemeanor is a fine of not more than \$500. §18.2-11(c) In addition, a school bus operator who violates this requirement has three points assessed against his/her driving record. §46.2-492 (D)(3).

Effect on Civil Liability
(continued)

admitted into evidence nor commented upon by counsel
in a civil action. §§46.2-1092 and 46.2-1094(D)

Required Use of Child Safety Restraint Systems:³⁴¹

Requirements:

- I. A person when transporting a child <6 years old in a motor vehicle³⁴² must secure such a child in a Federally approved child restraint device. §46.2-1095(A)
- II. As an alternative to using a child restraint device, a person, when transporting a child ≥ 4 but <6 years old, may secure such child in a safety belt if the size and weight of the child make the use of a safety belt practical and the use of a child restraint device impractical. §46.2-1100
- III. A person when transporting a child ≥ 6 but <16 years old shall ensure that such child is secured in a safety belt. §46.2-1095(B)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

For any violation of the child restraint law: a civil penalty of \$50 and no court costs. §46.2-1098 No points are assessed against a person's driving record for a violation of these requirements.³⁴³ §46.2-1098

Effect on Civil Liability:³⁴⁴

- I. A violation of these requirements shall not constitute negligence per se. Such violations shall not constitute a defense for personal injuries to a child for injuries sustained in a motor vehicle accident. §46.2-1098
- II. Under separate provisions of law, a violation of these requirements is likewise not considered to be negligence per se. In addition, a violation is not to be considered in

³⁴¹**Exemptions.** There are several provisions of the child restraint law that provided for exemptions. I. Under §46.2-1095(E), such requirements do not apply to taxicabs, school buses, executive sedans, limousines, or the rear cargo area of vehicles other than pickup trucks. II. Under §46.2-1099, these requirement do not apply in the following circumstances: (1) to children who are being transported in a vehicle having an interior design which makes the use of a child restraint device impractical; and (2) to children being transported by public transportation, bus, school bus, or farm vehicle. III. Under §46.2-1096, these requirements do not apply to children who for weight, physical unfitness, or other medical reasons cannot practically use a child restraint system. Operators carrying such children must carry a statement from a doctor or risk being fined \$20. §36.2-1098.

³⁴²This requirement only applies to motor vehicles manufactured after January 1, 1968. §46.2-1095. Note: The child passenger protection law is not clear but it appears to apply only to vehicles that are required by law to be manufactured with safety belts.

³⁴³Persons under 18 years old who receive points are subject to the following sanctions. For a first violation where points have been assigned, the person shall be directed to attend a driver improvement clinic. For a second violation where points have been assigned, the person shall have his/her driving privileges **suspended for 90 days**. And, for a third violation where points have been assigned, the person shall have his/her driving privileges **revoked** for either **1 year** or until they reach 18 years old, whichever is the longer revocation period. §46.2-334.01(1)(A), (2) and (3)

³⁴⁴A person who installs or inspects a child restraint device is not liable for any damages caused by any act of omission related to such activity provided such person has obtained the appropriate training for the installation of child restraint systems via standards established by the National Highway Traffic Safety Administration. §8.01-226.5

litigation of damages, admitted into evidence or commented upon by counsel in any civil action. §46.2-1095(C)

Air bags:

Installation of object in lieu of air bag prohibited; notice of installation of previously installed air bag required. Section 46.2-1088.3

Required Use of Motorcycle Protective Headgear:³⁴⁵

Requirements:	When operating or riding on a motorcycle, ³⁴⁶ a person shall wear a State-approved protective helmet. <u>Important:</u> This requirement does not apply if the motorcycle is being driven in an authorized parade at a speed ≤15 mph. §46.2-910(A)
Sanctions for Failure to Use:	Traffic Infraction: A fine of not more than \$200 . §46.2-113 Note: Failure to wear a protective helmet shall not constitute negligence per se in any civil proceeding. §46.2-910(A)

Required Use of Motorcycle Eye Protection Device:

Requirements:	When operating a motorcycle, a person shall wear a State-approved face shield, safety glasses, or goggles. This requirement does not apply if the motorcycle is equipped with windshield. §46.2-910(A)
Sanctions for Failure to Use:	Traffic Infraction: A fine of not more than \$200 . §46.2-113 Note: Failure to wear a face shield, safety glasses or goggles shall not constitute negligence per se in any civil proceeding. §46.2-910(A)

Required Use of Bicycle Protective Headgear:

Requirements:	A county, city or town may enact an ordinance providing that every person ≤14 years old shall wear a nationally approved protective helmet when riding or being carried on a bicycle. §46.2-906.1
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³⁴⁵The requirement to wear a protective helmet does not apply to operators or passengers of (1) motorcycles with wheels of ≤8 inches in diameter or (2) three-wheeled motorcycles which have non-removable roofs, windshields and enclosed bodies. §46.2-910(A)

³⁴⁶The term "motorcycle" does not include a moped. However, the term "moped" is defined to include a motorcycle with an engine displacement of ≤50 cubic inches and a maximum speed of <30 mph. §46.2-100

Sanctions for Failure to Use:

A violation of such an ordinance is punishable by a fine of **\$25**. §46.2-906.1

Required Use of Bicycle Protective Headgear:
(continued)

Note: A violation of this requirement (1) shall not constitute negligence, (2) shall not constitute assumption of risk, (3) shall not be considered in the mitigation of damages of whatever nature, and (4) shall neither be admitted into evidence nor commented upon by counsel in a civil action. §46.2-906.1

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

No person <16 years old shall be transported in the rear cargo area of any pickup truck on the State's highways. §46.2-1156.1

Sanctions for a Violation:

Traffic Infraction: A fine of not more than **\$200**. §46.2-113

Exemptions: This prohibition does not apply to persons who are riding in such cargo area (1) as part of an authorized parade or (2) "across a highway from one field or parcel of land to another field or parcel of land in connection with farming operations." §46.2-1156.1

JURISDICTION:
General Reference:

VERMONT
Vermont Statutes Annotated

Required Use of Safety Belts:³⁴⁷

Requirements:

A person shall not operate a motor vehicle³⁴⁸ unless all persons (including the operator), who are occupying a seating position with safety belts, are wearing such belts. Title 23, §1259(a) See Required Use of Child Safety Restraints below.

Secondary Enforcement: A law enforcement officer can only enforce this requirement if a vehicle operator has been detained for another traffic law violation. An offender is not subject to a fine for a violation of the safety belt requirement unless the operator is required to pay a penalty for the primary traffic law offense. Title 23, §1259(e)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Offense: A vehicle operator is subject to a fine of \$25 for first violation, \$50 for second violation, and \$100 for third and subsequent violations. Title 23, §1259(f) No points are assigned for a violation of this requirement.

Effect on Civil Liability:

A failure to comply with this requirement is not admissible as evidence in any civil proceeding. Title 23, §1259(c) A failure to comply with this requirement does not constitute negligence or contributory negligence in any civil proceeding or criminal action, nor be entered as evidence to bar prosecution of a criminal offense. Title 23, §1259(d)

³⁴⁷**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) to persons who have a physical condition that would make the wearing of a safety belt inappropriate; (2) to rural mail carriers of the U.S. Postal Service while performing official duties; (3) to persons who are making frequent stops for the purpose of delivering property and where the vehicle is operating ≤15 mph; (4) to persons performing official duties in an emergency vehicle; (5) to persons operating any farm tractor; (6) to persons occupying either a bus or a taxi; and (7) to persons required to be in a child restraint system . Title 23, §1259(b)

³⁴⁸The requirement to use a safety belt only applies to persons who are occupying a seating position that has been manufactured with a Federally approved safety belt system. Title 23, §1259(a) Note: Indirectly, the safety belt use law only applies to motor vehicles that are required to have safety belts under Federal law.

Required Use of Child Safety Restraint Systems:³⁴⁹

Requirements:

Title 23, §1258(a) A person when transporting a child <16 years old in a motor vehicle, except a Type I school bus³⁵⁰ shall secure such child in a Federally approved child restraint system or a Federally approved safety belt, as follows:

- (1) All children under the age of 1, and all children weighing less than 20 pounds, regardless of age, shall be restrained in a rear-facing position, properly secured in a Federally approved child passenger restraining system which shall not be installed in front of an active air bag;
- (2) a child weighing more than 20 pounds, and who is 1 year of age or older and under the age of 8 years, shall be restrained in a child passenger restraining system; and
- (3) a child 8 through 15 years of age shall be restrained in a safety belt system or a child passenger restraining system .

Sanctions for Failure to Require the Use of Child Restraint Systems:³⁵¹

Traffic Offense: a fine of not more than \$50 for a first violation, \$100 for a second and subsequent violations. Title 23, §1258(d)

Required Use of Motorcycle Protective Headgear:³⁵²

Requirements:

No persons shall operate or ride on motorcycles unless they wear State-approved protective headgear. Title 23, §1256

Sanctions for Failure to Use:

Traffic Violation (Not a Crime-Treated as a Civil Action): a penalty of not more than

³⁴⁹**Exemptions.** These requirements do not apply in the following circumstances: (1) to children being transported as passengers for hire (except motor vehicles owned by day care facilities); (2) to children who are riding in motor vehicles that were not manufactured with safety belts; (3) to children who have a physical condition that prevents the use of either a child passenger restraint system or a safety belt; and (4) to children where the total number of safety belts available are in use, provided that children <5 years old are secured in a child passenger restraint system and all safety belts are in use. Title 23, §1258(c)

³⁵⁰A “school bus” is defined as a motor vehicle with a manufacture’s rated seating capacity ≥ 11 passengers including the operator, used to transport children to or from school or school activities. Excluded from this definition are common carriers and certain private vehicles. A Type I school bus means a school bus designed to transport >15 passengers including the operator. And, a Type II school bus means a school bus designed to transport >10 and <16 passengers, including the operator. Title 23, §4(34)(A), (B) and (C)

³⁵¹A person shall not be adjudicated in violation of this section if:

- (1) the motor vehicle is regularly used to transport passengers for hire except a motor vehicle owned or operated by a daycare facility; or
- (2) the motor vehicle was manufactured without safety belts.

³⁵²The penalty for this offense is normally determined via a waiver schedule established by the Judicial Bureau. Title 4, §1102(d)

\$1,000. Title 23, §2302(b) and (c) Two points are assessed against a person's driving record for a violation of this requirement. Title 23, §2502(a)(BBB)

Required Use of Motorcycle Eye Protection Device:

Requirements:	If a motorcycle is not equipped with a windshield or screen, the operator shall wear either eye glasses, goggles, or a face shield. Title 23, §1257
Sanctions for Failure to Use:	Traffic Violation (Not a Crime-Treated as a Civil Action): a penalty of not more than \$1,000. Title 23, §2302(b) and (c). Two points are assessed against a person's driving record for a violation of this requirement. Title 23, §2502(a)(CCC)

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	N/A

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	None ³⁵³
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³⁵³ Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for children <8 years old via the provisions of the Child Safety Restraint System law.

JURISDICTION:
General Reference:

WASHINGTON
Revised Code of Washington Annotated and
Washington Administrative Code (WAC)

Required Use of Safety Belts:³⁵⁴

Requirements:

I. A person ≥ 16 years old who is either operating or riding in a motor vehicle³⁵⁵ shall wear a safety belt. §46.61.688(3)
II. No person shall operate a motor vehicle unless all child passengers < 16 years old are either wearing safety belts or using some other approved child restraint devices. §46.61.688(4)
Secondary Enforcement. Enforcement of these requirements may only be accomplished as a secondary action when a driver has been detained for a suspected violation of State or local motor vehicle laws or some other offense. However, if a child < 16 years old must be secured in an approved child restraint device, enforcement is primary. §46.61.688(7)
See Required Use of Child Restraint Systems below.

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Traffic Infraction: Not more than **\$250**.³⁵⁶

³⁵⁴**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) to persons who are operating or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (2) to persons for whom no safety belts are available, when all designated seating positions are occupied; (3) to persons who for physical or medical reasons are unable to wear safety belts; and (4) to persons whom the State has exempted via regulation and who are operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops. §46.61.688(2), (7) and (8)

³⁵⁵The term "motor vehicle" means (1) a bus designed to carry > 10 persons, (2) a "multipurpose passenger vehicle" designed to carry ≤ 10 persons, (3) a passenger car, or (4) a truck. However, the term does not include (1) motorcycles or (2) trailers designed to carry ≤ 10 persons or to transport property. §46.61.688(1). **Important:** The safety belt use law only applies to motor vehicles that are required to meet the manual seat belt standards under Federal law (49 CFR 571.208).

³⁵⁶**Fine Schedule.** The State Supreme Court is required to establish a monetary penalty schedule of traffic infractions. §46.63.110. Under this law, a fine of **\$35** has been established for this offense. Washington Court Rules 6.2(b) and (d)

Licensing Action. Although the law does not provide a specific licensing sanction for this offense, the State may suspend a person's licensing for not more than **1 year** based upon an offender's frequent conviction for traffic infractions. §§46.20.291(3) and 46.20.311(1) A person is considered a frequent violator of the traffic laws if he/she commits 4 traffic offenses with 12 months or 5 such offenses within 24 months. WAC 308-104-035

Public Safety and Education Assessment. In addition to any other fine, an offender is subject to two public safety and education assessments. The first assessment is equal to 60 percent of any fine imposed. The second is equal to 50 percent of the first. §3.62.090(1) and (2)

Other Monetary Penalties. An offender is also subject to a \$5 fee per infraction, which is used to support the emergency medical services and trauma case system (§46.63.110(7)) and is also subject to an additional penalty of \$10 (§46.63.10(8)).

Sanctions for Failure to Use or
Require the Use of Safety Belts

§§46.61.688(5) and 46.63-110(1) Note: A violation of these requirements shall be recorded on a driver's record. However, such information shall not be available to insurance companies or employers. §46.61.688(5)

Effect on Civil Liability:

Failure to comply with these requirements does not constitute negligence. In addition, failure to wear a safety belt cannot be admitted into evidence as negligence in any civil action. §46.61.688(6) and *Patterson v. Horton*, 929 P.2d 1125 (Wash. App. 2 Div. 1997)

Required Use of Child Safety Restraint Systems:³⁵⁷

Requirements:

- I.³⁵⁸ A person, when transporting a child who is <6 years old and/or who weighs <60 lbs. in a motor vehicle³⁵⁹ shall secure such child in a Federally approved child restraint system provided that the seating position is equipped with a safety belt system that allows sufficient space of installation. §46.61.687(1)(a)
- II. A person transporting a child who is <1 year old or who weighs <20 lbs. in a motor vehicle, shall secure such child in a rear-facing infant seat. §46.61.687(1)(b)
- III. A person transporting a child who is >1 year old but <4 years old or who weighs ≥20 lbs. but <40 lbs. in a motor vehicle shall secure such child in a forward-facing child safety seat. §46.61.687(1)(c)
- IV. A person when transporting a child who is at least 4 years old but <6 years old or who weighs ≥40 lbs. but <60 lbs. in a motor vehicle shall secure such child in a child booster seat.³⁶⁰ §46.61.687(1)(d)

³⁵⁷**Exemptions.** These requirements do not apply in the following circumstances: (1) to children riding in for-hire vehicles; (2) to children riding in vehicles designed to transport ≤16 persons (including the driver) and that are operated by auto transportation companies; (3) to children riding in vehicles providing customer shuttle service between parking, convention, and hotel facilities and airport terminals; and (4) school buses. §46.61.687(4)

³⁵⁸**Important.** This requirement does not apply if the seating position has only a lap belt available and the child weighs >40 lbs. §46.61.687(6)

³⁵⁹The term "motor vehicle" means passenger cars that are required by law to have safety belts.

§§46.37.510 and 46.61.687(1) The "passenger car" is defined as every motor vehicle, except motorcycles and motor-driven cycles, that is used to and designed to carry ≤10 persons. §46.04.382

³⁶⁰"Child booster seat" is defined to mean "a child passenger restraint system that meets Federal Motor Vehicle Standards set forth in 49 CFR 571.213 that is designed to elevate a child to properly sit in a Federally approved lap/shoulder belt system." §46.61.687(5)

Required Use of Child Safety Restraint Systems
(continued)

	<p>V. A person transporting a child, who is ≥ 6 years old but < 16 years old <u>or</u> who weighs > 60 lbs., in a motor vehicle shall secure such child in either a <u>safety belt</u> that has been properly adjusted and fastened <u>or</u> an appropriately fitting booster seat. §46.61.687(1)(e)</p> <p>VI. A person transporting a child, who is < 6 years old <u>or</u> who weighs < 60 lbs. in a motor vehicle that is equipped with an <u>activated</u> passenger-side air bag system, shall transport such child, if practical to do so, in the <u>back seat</u>. §46.61.687(1)(f)</p> <p>Note: It is illegal to transport a child < 5 years old on a motorcycle or motor-driven cycle. §46.37.530(d)</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p>Traffic Infraction: Not more than \$250. For a first violation, the infraction will be dismissed if, within 7 days, proof of acquisition of a child restraint system is presented. §§46.61.687(2) and 46.63-110(1)</p>
Effect on Civil Liability:	<p>Failure to comply with these requirements shall not constitute negligence by a parent or legal guardian. In addition, failure to use a child restraint system is not admissible as evidence of negligence in any civil action. §46.61.687(3) and <i>Patterson v. Horton</i>, 929 P.2d 1125 (Wash. App. 2 Div. 1997)</p>
Air Bags	<p>(1) A person is guilty of a gross misdemeanor if he or she knew or reasonably should have known that an air bag he or she installs or reinstalls in a vehicle for compensation, or distributes as an auto part, is a previously deployed air bag that is part of an inflatable restraint system.</p> <p>(2) A person found guilty under subsection (1) of this section shall be punished by a fine of not more than \$5,000 or by confinement in the county jail for not more than one year, or both.</p> <p>(3) Whenever an air bag that is part of a previously deployed inflatable restraint system is replaced by either a new air bag that is part of an inflatable restraint system or a non-deployed salvage air bag that is part of an inflatable</p>

restraint system, the air bag must conform to the original equipment manufacturer requirements and the installer must verify that the self-diagnostic system for the inflatable restraint system indicates that the entire inflatable restraint system is operating properly.

Required Use of Motorcycle Protective Headgear:³⁶¹

Requirements: A person who operates or rides on a motorcycle, motor-driven cycle or moped on a state highway, county road, or city street must wear a protective motorcycle helmet §46.37.530(c) "Motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chin-strap-type retention system, with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation. §46.37.530(e) (3)

Sanctions for Failure to Use:

Traffic Infraction: Not more than **\$250**.
§§46.63.020 and 46.63.110(1)

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person who operates a motorcycle or a motor-driven cycle which does not have a windshield must wear State-approved glasses, goggles, or a face shield. §46.37.530(1)(b)

Sanctions for Failure to Use:

Traffic Infraction: Not more than **\$250**.
§§46.63.020 and 46.63.110(1)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

N/A

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

³⁶¹Failure to wear a helmet is not an affirmative defense to the causation of an accident. *Keller v. City of Spokane*, 17 P.3d 661 (Wash. App. 2001) (affirmed 44 P.3d 845 (Wash. 2002).)

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements: **None**³⁶²

Sanctions for a Violation: N/A

Exemptions: N/A

³⁶²The safety belt usage and child passenger protection laws may have indirectly established such a prohibition.

JURISDICTION:
General Reference:

WISCONSIN
Wisconsin Statutes Annotated and Wisconsin
Administrative Code (WAC)

Required Use of Safety Belts:³⁶³

Requirements:

I. When operating a motor vehicle, a person shall be “properly restrained”³⁶⁴ in a safety belt. §347.48(2m)(b)
II. No person shall operate a motor vehicle unless all front-seat passengers ≥ 4 but < 15 years old are “properly restrained” in safety belts. In addition, in other seating positions (e.g., rear seats) where the safety belt restraint system has a shoulder harness, such persons shall be restrained by such belt. §347.48(2m)(c)
III Front seat passengers ≥ 4 years old must be “properly restrained” in a safety belt. In addition, in other seating positions (e.g., rear seats) where the safety belt restraint system has a shoulder harness, such persons shall be restrained by such belt. §347.48(2m)(d) Important. See Required Use of Child Safety Restraint Systems below.
Secondary Enforcement. A law enforcement officer may not stop or inspect a vehicle solely to determine compliance with these requirements. §347.48(2m)(gm)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Forfeiture: A fine of **\$10**. §347.50(2m)(a) However, no forfeiture may be assessed if the offender is < 16 years old. §347.50(2m)(b) Note: No points may be assessed against a person's driving record for a violation of these requirements. WAC 101.02(5)(b)

Effect on Civil Liability:

Evidence of noncompliance with these requirements may be admitted into evidence in any civil action. However, such noncompliance shall not reduce recovery for damages by more than 15 percent. §347.48(2m)(g)

³⁶³**Exemptions.** The requirements to use a safety belt do not apply in the following circumstances: (1) to persons operating or riding in emergency vehicles (e.g. law enforcement vehicles, ambulances, etc.) if such use could endanger the operator or another (§347.48(2m)(dm)); (2) to motor vehicle operators or passengers who are required to make more than 10 stops per mile in the scope of their employment (§347.48(2m)(dr)); (3) to persons who, because of physical or medical conditions, cannot be properly restrained in safety belts (§347.48(2m)(e)); (4) to persons operating or riding in taxicabs (§347.48(2m)(f)(1)); (5) to persons operating or riding in motor vehicles that are not required under Federal law to be equipped with safety belts (§347.48(2m)(f)(1)); (6) to rural letter carriers or to persons who are delivering newspapers or periodicals (§347.48(2m)(f)(2)); (7) to persons operating or riding in motor vehicles while such vehicles are being used in land surveying (§347.48(2m)(f)(3)); and (8) to persons operating or riding in farm trucks while such vehicles are being used in conjunction with the planting or harvesting of crops and are not being operated on a highway (§347.48(2m)(f)(7)).

³⁶⁴“Properly restrained” is defined to mean “wearing a safety belt approved by the department...and fastened in a manner prescribed by the manufacture of the safety belt which permits the safety belt to act as a body restraint.” §347.48(2m)(a)

Required Use of Child Safety Restraint Systems:³⁶⁵

Requirements:

I. No person shall transport a child <4 years old in a motor vehicle, unless such child is “properly restrained”³⁶⁶ in a Federally approved child safety restraint system. §347.48(4)(a)(1)

II. No person shall transport a child ≥4 but <8 years old in a motor vehicle, unless such child is “properly restrained” either in a Federally approved child safety restraint system or in a safety belt.³⁶⁷ §347.48(4)(a)(2)

Sanctions for Failure to Require the Use of Child Restraint Systems:

I. Forfeiture: For a violation of I above there is an assessment of not less than **\$30** nor more than **\$75**. §347.50(3)(a). The assessment is waived upon proof of acquisition and installation of a child restraint system within 30 days of the citation’s issuance. §347.50(3)(b).

II. Forfeiture: For a violation of II above, for a first offense there is an assessment of not less than **\$10** nor more than **\$25** and for a second or subsequent offense (within 3 years) there is an assessment of not less than **\$25** nor more than **\$200**. §347.50(4)

Note: No points may be assessed against a person's driving record for a violation of these requirements. WAC 101.01(5)(a)

Effect on Civil Liability:

Evidence of a failure to comply with these requirements is admissible in any civil action. However, such failure to comply does not by itself constitute negligence. §347.48(4)(d)

Required Use of Motorcycle Protective Headgear:

Requirements:

I. No person who holds a motorcycle instructional permit, regardless of age, shall operate a motorcycle unless he/she is wearing Federally approved protective

³⁶⁵**Exemptions.** These requirements do not apply in the following circumstances: (1) to a child who is temporarily removed from a child restraint system to attend to his/her personal needs and the child is being transported in the back seat (§347.48(4)(a)(3)); (2) to a child who has a physical, medical condition or body size that prevents the use of either a child safety restraint system or safety belt (§347.48(4)(b)); and (3) to a child who is riding in a motor bus, school bus, taxicab, moped, motorcycle, or a vehicle that is not required to be equipped with safety belts under Federal law (§347.48(4)(c)).

³⁶⁶“Properly restrained” is defined to mean “fastened in a manner prescribed by the manufacture of the system which permits the system to act as a body restraint but does not include a system in which the only body restraint is a safety belt....” §340.48(4)(a)(1)

³⁶⁷“Properly restrained” is defined to mean “fastened in a manner prescribed by the manufacture of the system which permits the system to act as a body restraint.” §340.48(4)(a)(2)

Required Use of Motorcycle Protective Headgear:
(continued)

headgear. §347.485(1)(a)
II. No person <18 years old shall operate a motorcycle or ride as a passenger unless he/she is wearing Federally approved protective headgear. §347.485(1)(a)

Sanctions for Failure to Use:

Forfeiture: An assessment of not less than **\$10** nor more than **\$200**. §347.50(1). Note: No points may be assessed against a person's driving record for a violation of these requirements. WAC 101.01(5)(e)

Required Use of Motorcycle Eye Protection Device:³⁶⁸

Requirements:

Unless a motorcycle is equipped with a windshield, a motorcycle operator shall wear either a protective face shield, glasses, or goggles. §347.485(2)

Sanctions for Failure to Use:

Forfeiture: An assessment of not less than **\$10** nor more than **\$200**. §347.50(1). Note: Although the law is not specific, a person's driving record may be assessed two points for a violation of this requirement. WAC 101.02(4)(e)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

N/A

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:³⁶⁹

Requirements:

I. No person shall drive a vehicle when any person is riding upon any portion of the vehicle that is not designed or intended for passenger use. This requirement does not apply to employee's discharging

³⁶⁸This requirement applies only to persons operating or riding on Type I motorcycles. A Type I motorcycle is generally a two- (tandem) or three-wheeled motor vehicle designed to carry a 150 lb. person at a speed >30 mph. §340.01(32)

³⁶⁹This requirement does not apply to persons who are operating motorcycles in a parade that is sanctioned by a local government. §347.485(2)(d)

necessary duties as part of his/her employment.

§346.92(1)

II. No person shall ride upon any portion of the vehicle

Prohibition Against Riding in Unsecured

Portion of Vehicle

(continued)

that is not designed or intended for passenger use. This requirement does not apply to employees discharging necessary duties as part of their employment.

§346.92(2)

III. No person shall operate a truck weighing ≤10,000 lbs. when a person <16 years old is in the open cargo area of such vehicle. §346.922(1)

Sanctions for a Violation:

I. For a violation of I or II above, forfeiture: First offense-An assessment not less than **\$20** nor more than **\$40**. Second or subsequent offense (within 1 year)-An assessment not less than **\$50** nor more than **\$100**.

§346.95(1)

II. For a violation of III above, forfeiture: First offense-An assessment not less than **\$10** nor more than **\$25**. Second or subsequent offense (within 3 years)-An assessment not less than **\$25** nor more than **\$200**.

§346.95(7)

Note: Although the law is not specific, a person's driving record may be assessed two points for a violation of these requirements. WAC 101.02(4)(e)

Exemptions:

I. The prohibitions under I and II above do not apply to employees discharging necessary duties as part of their employment or to persons riding within truck bodies in spaces intended for merchandise. §346.92

II. The prohibition under III above does not apply to persons (1) who are operating a farm truck while performing farm operations, (2) who are operating a truck in a parade sanctioned by a local municipality, or (3) who are transporting licensed deer hunters during authorized deer hunting season with firearms.

§346.922(2)

JURISDICTION:
General Reference:

WEST VIRGINIA
West Virginia Code

Required Use of Safety Belts:³⁷⁰

Requirements:

A person may not operate a passenger vehicle³⁷¹ unless the operator, all front-seat passengers (regardless of age) and all back-seat passengers <18 years old are restrained in safety belts. §17C-15-49(a)

Secondary Enforcement. Enforcement of this requirement shall be accomplished only as a secondary action when the driver has been detained for probable cause of violating another State law. §17C-15-49(c)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Misdemeanor: A fine of not more \$25.³⁷² No court costs or other fees shall be assessed against a person for a violation of this requirement. §§17C-15-49(c) and 17C-18-1(a) No points are assessed for a violation of this requirement. §17C-15-49(e)

Effect on Civil Liability:

A violation of these requirements is not admissible as evidence of negligence, contributory negligence or comparative negligence in any civil action. Generally, a violation of this requirement is not admissible in the mitigation of damages. However, under certain circumstances, when it can be shown that such a violation was the proximate cause of injuries, such evidence may be admitted to reduce damages by not more than 5 percent. §17C-15-49(d)

³⁷⁰**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) to rural mail carriers of the U.S. Postal Service while they are performing official duties; and (2) to persons who have a physical disability that would prevent appropriate restraint in a safety belt. §17C-15-49(b)

³⁷¹The term "passenger vehicle" means a motor vehicle that is designed to transport ≤10 persons (including the driver). However, the term does not include a motorcycle, a trailer or any motor vehicle that is not required under Federal law to have safety belts. §17C-15-49(a)

³⁷²**Alternative Sentences.** In lieu of either a fine or incarceration sanction (except mandatory incarceration via statute), a court may impose one of the following sentences: Either (1) a weekend jail program where the offender spends weekends or "other days normally off from work" in confinement; (2) the first one or two days in confinement followed by work assignments within the jail or on other public works projects outside of the jail; or (3) a community service program with government entities, charitable or other non-profit organizations which have been approved by the court. §62-11A-1a(a) and (c)(1)

Required Use of Child Safety Restraint Systems:³⁷³

Requirements:	<p>I. A person when transporting a child <9 years old in a passenger automobile, van, or pickup truck³⁷⁴ shall secure such child in a Federally approved child passenger safety device, except that if a child is at least 4 years of age or at least 40 pounds in weight, a safety belt shall be sufficient to meet the requirements of this section. §17C-15-46</p> <p>II. A person when transporting a child ≥4 and weighing ≥40 lbs. but <9 years old in a passenger automobile shall secure such child either in a Federally approved child passenger safety device or a safety belt. §17C-15-46</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	Misdemeanor: Not less than \$10 nor more than \$20 . §17C-15-46 Note: The law does not appear to assign points for a violation of these requirements.
Effect on Civil Liability:	A violation of these requirements does not constitute evidence (1) of negligence, (2) of contributory negligence, or (3) of comparative negligence in any civil action. §17C-15-46

Required Use of Motorcycle Protective Headgear:

Requirements:	No person shall operate or ride on a motorcycle or motor-driven cycle unless they are wearing an officially approved protective helmet. §17C-15-44(a)
Sanctions for Failure to Use:	<p>Misdemeanor: <u>First offense</u>-An imprisonment term of not more than 10 days and/or a fine of not more than \$100. <u>Second offense</u> (within 1 year)-An imprisonment term of not more than 20 days and/or a fine of not more than \$200. <u>Third or subsequent offense</u>-An imprisonment term of not more than 6 months and/or a fine of not more than \$500. §17C-18-1(a) and (b)</p> <p>Note: The law does not appear to assign points for a violation of this requirement.</p>

³⁷³These requirements do not apply if all the safety belts are being used, i.e., the number of passengers in the vehicle exceeds the number of seat belts available for use. §17C-15-46

³⁷⁴This requirement does not apply to children riding in motor vehicles for hire. §17C-15-46

Required Use of Motorcycle Eye Protection Device:

Requirements:	No person shall operate or ride on a motorcycle or motor-driven cycle unless he/she is wearing officially approved safety, shatter-resistant eyeglasses (excluding contact lenses), eye goggles, or a face shield. §17C-15-44(b)
Sanctions for Failure to Use:	Misdemeanor: <u>First offense</u> -An imprisonment term of not more than 10 days and/or a fine of not more than \$100 . <u>Second offense</u> (within 1 year)-An imprisonment term of not more than 20 days and/or a fine of not more than \$200 . <u>Third or subsequent offense</u> -An imprisonment term of not more than 6 months and/or a fine of not more than \$500 . §17C-18-1(a) and (b) Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:³⁷⁵

Requirements:	I. A person <15 years is prohibited from operating or being a passenger on a bicycle unless he/she wears a protective bicycle helmet. §17C-11A-4(a) II. It is unlawful for a parent or legal guardian to knowingly permit his/her child <15 years old to violate the above requirement. §17C-11A-4(b)
Sanctions for Failure to Use:	Misdemeanor: A parent or legal guardian who violates this requirement is subject to a fine of \$10 or must perform 2 hours of community service related to child injury prevention. No court costs may be assessed. The fine may be waived upon proof of helmet acquisition. §§17C-11A-7(a) and 17C-18-1(a) Note: There appears to be no sanction against a person <15 years old who violates this requirement.

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

³⁷⁵State law allows a local government to enact an ordinance requiring the use of bicycle helmets. §17C-11A-8

Prohibition Against Riding in Unsecured
Portion of Vehicle:

Requirements:

Note: See Required Use of Child Safety
Restraint Systems above.

Sanctions for a Violation:

N/A

Exemptions:

N/A

JURISDICTION:
General Reference:

WYOMING
Wyoming Statutes Annotated

Required Use of Safety Belts:³⁷⁶

Requirements:

I. When a motor vehicle³⁷⁷ is in motion, the driver and each passenger shall wear a safety belt. §31-5-1402(a)

II. When a motor vehicle is in motion, the driver shall require each passenger <12 years old to wear a safety belt. §31-5-1402(a)

Secondary Enforcement. No motor vehicle shall be halted solely for a violation of these requirements. §31-5-1402(d)

Sanctions for Failure to Use or
Require the Use of Safety Belts:³⁷⁸

I. Misdemeanor: A driver who violates the requirements in either I or II above is subject to a fine of not more than **\$25**. §§31-5-1201(a) and 31-5-1402(e)

II. A passenger who violates the requirement in I above is subject to a fine of not more than **\$10**. §§31-5-1201(a) and 31-5-1402(e)

No violation of these requirements may be counted as a moving violation for license suspension purposes. §31-5-1402(c)(i) In addition, a violation of these requirements is neither grounds for increasing insurance premiums nor can such be made part of a person's driving record. §31-5-1402(c)(ii)

Effect on Civil Liability: Evidence of a person's failure to comply with these requirements is not admissible in any civil action. §31-5-1402(f)

Required Use of Child Safety Restraint Systems:³⁷⁹

³⁷⁶**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) to persons who for physical or medical reasons makes such use unadvisable; (2) to persons operating or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (3) to carriers of the U.S. Postal Service while performing official duties; (4) to persons properly secured in child restraint systems; and (5) to persons occupying a seat where all operable safety belts are being used by the driver or other passengers and to "any person occupying a seat in a vehicle originally manufactured without a safety belt." §31-5-1402(b)

³⁷⁷"Motor vehicle" "means every vehicle which is self-propelled except vehicles moved solely by human power and golf carts...." §31-5-102(a)(xxiv) **Note:** This is the definition of "motor vehicle" under the general definitions provision of the motor vehicle code (Title 31). There is no definition of "motor vehicle" in the safety belt use law. However, the safety belt use law does define "passenger vehicle" as "a vehicle...designed to carry ≤11 persons, including pickup trucks, but excluding emergency vehicles, motorcycles and buses. §31-5-1401(a)(ii).

³⁷⁸If a person is cited for a violation of the traffic laws, he/she may have the fine reduced by **\$10** if a safety belt was in use. §31-5-1402(e)

³⁷⁹**Exemptions.** This requirement does not apply in the following circumstances: (1) to a child whose weight, or physical or medical condition prohibits the use of a child safety restraint system; and (2) the driver of the vehicle is rendering aid or assistance to the child or his parent or guardian. §31-5-1303(b)

Requirements:	A person transporting a child ≤8 years old <u>and</u> weighing ≤80 lbs. in a passenger vehicle ³⁸⁰ shall secure such child in a Federally approved child restraint system in a seat other than the front seat, or in the front seat if there is only one row of seats in the vehicle. §31-5-1303(a)
Sanctions for Failure to Require the Use of Child Restraint Systems:	Misdemeanor: <u>First offense</u> -A fine of not more than \$50 . (This fine shall be waived upon proof of acquisition of a child restraint system.) <u>Second or subsequent offense</u> -A fine of not more than \$100 . §§31-5-1201(a) and 31-5-1304(a). Note: The law does not specifically provided for licensing action for a violation of this requirement. However, the law does allow the State to suspend a person's license for not more than 12 months for repeated convictions of "moving violations." §31-7-129(a)(i) The law is not clear on whether a conviction of this requirement is a moving violation.
Effect on Civil Liability:	A violation of this requirement “does not constitute evidence of negligence or recklessness and does not constitute a basis for criminal prosecution except as set forth” above. §31-5-1305

Required Use of Motorcycle Protective Headgear:

Requirements:	I. A minor ³⁸¹ shall not operate or ride on a motorcycle unless he/she is wearing protective headgear. §31-5-115(o) II. A motorcycle operator shall not allow a minor to ride on a motorcycle unless such minor is wearing protective headgear. §31-5-115(o) Note: These requirements do not apply to persons riding on mopeds, in enclosed cabs, while riding in a parade, or while operating on roads other than public highways, streets, or thoroughfares. §31-5-115(o)
Sanctions for Failure to Use:	Misdemeanor: <u>First offense</u> -An imprisonment term of not more than 20 days and/or a fine of

³⁸⁰The term "passenger vehicle" means a motor vehicle, excluding emergency and law enforcement vehicles, designed to carry people and that was equipped with safety belts at the time of manufacture. §31-5-1302(a)(v). The terms “school bus” and “commercial vehicle” are excluded from this definition. §31-5-1302(a)(ii) and (vi) As a result, children who are riding in these vehicles do not have to be secured in a child passenger restraint system.

³⁸¹A "minor" is defined as a person who has not yet reached his/her 18th birthday. §8-1-102(a)(iii)(B)

WYOMING

not more than **\$200**. Second offense (within 1 year)-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$300**. Third or subsequent offense (within 1 year)-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. §§31-5-1201(a) and (b). Note: The law does not specifically provided for licensing action for a violation of these requirements. However, the law does allow the State to suspend a person's license for not more than **12 months** for repeated "moving violation" convictions. §31-7129(a)(i). The law is not clear on whether a conviction of either of the above requirements is moving violation.

Required Use of Motorcycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Required Use of Bicycle Protective Headgear:

Requirements:	None
Sanctions for Failure to Use:	N/A

Required Use of Bicycle Eye Protection Device:

Requirements:	None
Sanctions for Failure to Use:	N/A

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:	None ³⁸²
Sanctions for a Violation:	N/A
Exemptions:	N/A

³⁸²Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

JURISDICTION:
General Reference:

UNIFORM VEHICLE CODE (UVC)
The UVC as revised by the National
Committee on Uniform Traffic Laws and
Ordinances in 2000.

Required Use of Safety Belts:³⁸³

Requirements:

I. A person is required to use a safety belt when operating a motor vehicle.³⁸⁴ §12-412 (a)
II. When operating a motor vehicle, a person must require that all passengers be secured in a safety belt. Passengers <12 years old must be secured by a safety belt in the rear seat unless all available rear seats are in use by other passengers <12 years old. §12-412 (b)

Sanctions for Failure to Use or
Require the Use of Safety Belts:³⁸⁵

Misdemeanor: First offense-A fine of not more than **\$200**. Second offense (within one year) - A fine of not more than **\$300**. Third and subsequent offenses (within one year)- An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. §17-101(a) and (b)

Effect on Civil Liability:

The UVC has no provision related to this subject.

Required Use of Child Safety Restraint Systems:

Requirements:

I. When a motor vehicle³⁸⁶ is in operation, a vehicle operator (the parent or legal guardian if in the vehicle) must properly restrain a child <4 years old regardless of weight or <40 lbs. regardless of age in a child passenger restraint system that has been approved by the U.S. Department of Transportation. §12-412 (c) (1)
II. Children weighing 40 pounds or more who are 4 years old or older but younger than 8 years

³⁸³**Exemptions:** The State is authorized to exempt individuals and classes of persons from the required use of either safety belts or child restraint systems. Such exemptions must be based on medical, physical or occupational reasons, where compliance would not be possible, safe and reasonable. §12-412 (d)

³⁸⁴This requirement applies only to vehicles that have seating positions with safety belts. §12-412 (a) and (b)

³⁸⁵The UVC does not specifically provide for any licensing sanctions for violations of vehicle occupant protection requirements. However, it does provide that a person's license can be suspended based upon frequent violations of the traffic laws under a point system. To implement this provision, the UVC authorizes a jurisdiction to implement a point system via regulations. §6-207 Under such regulations, a jurisdiction could provide for the assessment of points for a violation of any occupant protection requirement.

³⁸⁶This requirement applies to vehicles that are required by Federal law to have safety belts. §§12-411 and 12-412 (c)

Required Use of Child Safety Restraint Systems
(continued)

old shall be properly secured in either a child passenger restraint system secured by a lap and shoulder belt or a LATCH system, or in a booster seat properly secured by a lap and shoulder belt system. This §12-412 (c) (2) requirement shall not apply to children riding in vehicles with rear seating positions not equipped with lap and shoulder belt systems nor shall it apply to children riding in vehicles where all rear seating positions equipped with lap and shoulder belt systems are occupied by children younger than age 8. III Children seated in rear-facing child passenger restraint systems, in motor vehicles with rear passenger seating and an activated passenger-side frontal air bag system, shall be seated in the rear seat. §12-412 (c)

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Misdemeanor: First offense-A fine of not more than **\$200**. Second offense (within one year)-A fine of not more than **\$300**. Third and subsequent offenses (within one year)-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. §17-101(a) and (b)

Effect on Civil Liability:

The UVC has no provision on this subject.

Required Use of Motorcycle Protective Headgear:

Requirements:

No person shall operate or ride upon a motorcycle unless such person is wearing a motorcycle helmet that complies with the requirements of Federal Motor Vehicle Safety Standards No. 218. §11-1306 (a)

Sanctions for Failure to Use:

Misdemeanor: First offense-A fine of not more than **\$200**. Second offense (within one year)-A fine of not more than **\$300**. Third and subsequent offenses (within one year)-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. §17-101(a) and (b)

Required Use of Motorcycle Eye Protective Device³⁸⁷:

³⁸⁷Under §11-1115, "[e]very person operating a motor vehicle that is not equipped with a windshield in position to deflect objects which would hit such person's face shall wear an eye-protection device of a type approved by the commissioner. This section shall not apply to a person operating a motorcycle."

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Requirements: No person shall operate a motorcycle unless the motorcycle is equipped with a protective windscreen or the person is wearing an eye-protective device that meets or exceeds the standards established by Vehicle Equipment Safety Standard Regulation VESC-8 -Minimum Requirements for Motorcycles' Eye Protection. § 11-1306 e

Sanctions for Failure to Use: Misdemeanor: First offense-A fine of not more than **\$200**. Second offense (within one year)-A fine of not more than **\$300**. Third and subsequent offenses (within one year)-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. §17-101(a) and (b)

Required Use of Bicycle Protection Headgear:

Helmet Requirements: Helmet required of bicycle operators and passengers under the age of 16 on a street, sidewalk, or bikeway. Helmet shall meet standards of the Consumer Products Safety Commission (CPSC) Safety Standard for Bicycle Helmets (16 CFR Part 1203) and be conspicuously labeled in accordance with the CPSC Bicycle Safety Standard (16 CFR Part 1203).

Sanctions for Failure to Use: Misdemeanor: First offense-A fine of not more than **\$200**. Second offense (within one year)-A fine of not more than **\$300**. Third and subsequent offenses (within one year)-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**. §17-101(a) and (b)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use: N/A

Riding in Non-passenger Areas of Motor Vehicle:

Requirements: No passenger shall ride on or in any portion of a motor vehicle that is not a passenger seating position, including the cargo-carrying areas of any truck, pickup truck, or trailer; and no motor vehicle operator shall allow any passenger to violate this prohibition.

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This prohibition shall not apply to: (1) A vehicle in use in a parade if operated at less than 15 mph; (2) A vehicle in use in a hayride if operated at less than 15 mph, or (3) A vehicle crossing a road or highway from one field to another if operated at less than 15 mph. §11-1118

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